Volume 5

# 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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## CHAPTER 794

An act to add Section 16605 to the Welfare and Institutions Code, relating to human services, and making an appropriation therefor.

[Approved by Governor October 8, 1997. Filed with Secretary of State October 9, 1997.]

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

SECTION 1. The Legislature hereby declares its intent to promote family stability for abused and neglected children and to create a Kinship Support Services Program by doing all of the following:

(a) Establishing a family support program that provides support services to relatives who provide homes for abused and neglected children who would otherwise enter foster homes or who are at risk of dependency or delinquency.

(b) Recognizing that relative caregivers, often referred to as kinship caregivers, are a resource that help to ensure that family ties are maintained when children cannot reside with their own parents.

(c) Recognizing that a relative caregiver's capacity to obtain and maintain employment will be increased by the provision of supportive services.

(d) Improving outcomes for children in the homes of their relatives when supportive services are provided in their community.

(e) Recognizing that children in the homes of relatives who receive supportive services will achieve:

(1) Increased stability and safety.

(2) A reduction in recidivism.

(3) Increased likelihood for family members and relatives to assume and maintain responsibility and care of abused and neglected children.

(4) A reduction in court dependency hearings.

(5) A reduction in the utilization of more restrictive placements.

(6) A reduction in out of county placements.

SEC. 2. It is the intent of the Legislature to implement a statewide Kinship Support Services Program by establishing a grants-in-aid program to assist in the development of new local kinship support services programs and to assist in the expansion of existing community-based family support services programs to include local kinship support services programs.

SEC. 3. It is the intent of the Legislature to create incentives for blending funding and increasing collaboration and to test the feasibility of new financing and reimbursement mechanisms that result in all of the following:

(a) Reduced child welfare caseloads.

(b) Comprehensive services and case management for foster children.

(c) Reduced public spending.

SEC. 4. Section 16605 is added to the Welfare and Institutions Code, to read:

16605. (a) The department shall, subject to the availability of funds appropriated therefor, conduct a Kinship Support Services Program that is a grants-in-aid program providing start-up and expansion funds for local kinship support services programs that provide community-based family support services to relative caregivers and the children placed in their homes by the juvenile court or who are at risk of dependency or delinquency. Relatives with children in voluntary placements may access services, at the discretion of the county.

(b) The Kinship Support Services Program shall create a public-private partnership. A combination of federal, state, county, and private sector resources shall finance the establishment and ongoing operation of the program.

(c) The counties participating in the program shall meet the following requirements:

(1) Have 40 percent or more of dependent children in relative care placements.

(2) Have a demonstrated capacity for collaboration and interagency coordination.

(3) Have a viable plan for ongoing financial support of the local kinship support services program.

(4) Utilize relative caregivers as employees of the program.

(5) Have strong and viable public or private agencies to operate the program.

(d) The Kinship Support Services Program shall demonstrate the use of supportive services provided to relative caregivers and children placed in their homes using a community-based kinship support services model. This model shall provide services to relative caregivers that are aimed at helping to ensure permanent family kinship placements for children who have been placed with them by the juvenile court, and to provide family support services that will eliminate the need for juvenile court jurisdiction and the provision of services by the county welfare department.

(e) The program shall provide family support services appropriate for the target populations. These services may include, but are not limited to, the following:

(1) Assessment and case management.

(2) Social services referral and intervention aimed at maintaining the kinship family unit, for example, housing, homemaker services, respite care, legal services, and day care.

(3) Transportation for medical care and educational and recreational activities.

(4) Information and referral services.

(5) Individual and group counseling in the area of parent-child relationships and group conflict.

(6) Counseling and referral services aimed at promoting permanency, including kinship adoption and guardianship.

(7) Tutoring and mentoring.

(f) The Edgewood Center for Children and Families in San Francisco shall provide technical assistance to the Kinship Support Services Program and shall facilitate the sharing of information and resources among the local programs.

(g) (1) The sum of seven hundred fifty thousand dollars ($750,000) is hereby appropriated from the General Fund to the State Department of Social Services for the purpose of funding this grants-in-aid program.

(2) The sum of seventy-five thousand dollars ($75,000) is hereby appropriated from the General Fund to the State Department of Social Services for funding of the technical assistance to be provided by the Edgewood Center for Children and Families.

(3) The sum of seventy-five thousand dollars ($75,000) is hereby appropriated from the General Fund to the State Department of Social Services to fund the costs of state administration of the program.

(4) It is the intent of the Legislature that this program result in cost efficiencies and that any cost savings realized by participating counties as a result of this program be utilized to supplement, not supplant, other children's services programs, including children's health and mental health initiatives and child welfare.

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## CHAPTER 795

An act to amend Sections 18250, 18251, 18252, 18253, 18254, 18255, 18256, and 18257 of, to amend the heading of Chapter 4 (commencing with Section 18250) of Part 6 of Division 9 of, and to add Sections 18253.5 and 18256.5 to, the Welfare and Institutions Code, relating to public social services.

[Approved by Governor October 8, 1997. Filed with
Secretary of State October 9, 1997.]

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

SECTION 1. The heading of Chapter 4 (commencing with Section 18250) of Part 6 of Division 9 of the Welfare and Institutions Code is amended to read:

## Chapter 4. County Wrap-Around Services Pilot Project

SEC. 1.5. Section 18250 of the Welfare and Institutions Code is amended to read:

18250. (a) It is the intent of the Legislature that all counties be authorized to provide children with service alternatives to group home care through the development of expanded family-based services programs. These programs shall include individualized or "wrap-around" services, where services are wrapped around a child living with his or her birth parent, relative, adoptive parent, licensed or certified foster parent, or guardian. The wrap-around services developed under this section shall build on the strengths of each eligible child and family and be tailored to address their unique and changing needs.

(b) It is further the intent of the Legislature that the pilot project include the following elements:

(1) Making available to the county the state share of nonfederal reimbursement for group home placement, minus the state share, if any, of any concurrent out-of-home placement costs, for children eligible under this chapter, for the purpose of allowing the county to develop family-based service alternatives.

(2) Enabling the county to access all possible sources of federal funds for the purpose of developing family-based service alternatives.

(3) Encouraging collaboration among persons and entities including, but not limited to, parents, county welfare departments, county mental health departments, county probation departments, county health departments, special education local planning agencies, school districts, and private service providers for the purpose of planning and providing individualized services for children and their birth or substitute families.

(4) Ensuring local community participation in the development and implementation of wrap-around services by county placing agencies and service providers.

(5) Preserving and using the service resources and expertise of nonprofit providers to develop family-based and community-based service alternatives.

SEC. 2. Section 18251 of the Welfare and Institutions Code is amended to read:

18251. As used in this chapter:

(a) "County" means each county participating in an individualized or "wrap-around" pilot project.

(b) "County placing agency" means a county welfare or probation department, or a county mental health department with respect to those children placed pursuant to Section 7572.5 of the Government Code.

(c) "Eligible child" means a child who is any of the following:

(1) A child who has been adjudicated as either a dependent or ward of the juvenile court pursuant to Section 300, 601, or 602 and who would be placed in a group home licensed by the department at a rate classification level of 12 or higher.

(2) A child who would be voluntarily placed in out-of-home care pursuant to Section 7572.5 of the Government Code.

(3) A child who is currently, or who would be, placed in a group home licensed by the department at a rate classification level of 12 or higher.

(d) "Wrap-around services" means community-based intervention services that emphasize the strengths of the child and family and includes the delivery of coordinated, highly individualized unconditional services to address needs and achieve positive outcomes in their lives.

(e) "Service allocation slot" means a specified amount of funds available to the county to pay for an individualized intensive wrap-around services package for an eligible child. A service allocation slot may be used for more than one child on a successive basis.

SEC. 3. Section 18252 of the Welfare and Institutions Code is amended to read:

18252. Each county shall, at the county's option, develop a county plan for intensive wrap-around services and monitor the provision of those services in accordance with the plan. This plan shall be submitted to the department for informational purposes. Where a county operates both systems of care under the Children's Mental Health Services Act, Part 4 (commencing with Section 5850) of Division 5, and wrap-around services, these plans shall be coordinated. Each county's plan shall include all the following elements:

(a) A process and protocol for reviewing the eligibility of children and families for service and for monitoring accessibility and availability of service to the targeted population. Children shall be determined as eligible for wrap-around services pursuant to subdivision (c) of Section 18251, except that:

(1) Once a child is determined to be eligible for wrap-around services under this chapter, he or she shall remain eligible for the time period specified in his or her individualized services plan.

(2) A child and family participating in a family maintenance services program as described in Section 16506 and the wrap-around services program, shall not be subject to the time limitations specified in Section 16506.

(b) A process to accept, modify, or deny proposed individualized service plans for eligible children and families.

(c) A process for parent support, mentoring, and advocacy that ensures parent understanding of, and participation in, wrap-around services programs.

(d) A planning and review process to support and facilitate the following principles in delivering intensive wrap-around services to eligible children and families:

(1) Focusing on an individual child and family through the creation of service plans designed specifically to address the unique needs and strengths of each child and his or her family.

(2) Providing services geared toward enabling children to remain in the least restrictive, most family-like setting possible.

(3) Developing a close collaborative relationship with each child's family in the planning and provision of wrap-around services.

(4) Conducting a thorough, strengths-based assessment of each child and family that will form the basis for the development of the individualized intervention plan.

(5) Designing and delivering services that incorporate the religious customs, and regional, racial, and ethnic values and beliefs of the children and families served.

(6) Measuring consumer satisfaction to assess outcomes.

(e) Written interagency agreements or memorandums of understanding between the county departments of mental health, social services, and probation that specify jointly provided or integrated services, staff tasks and responsibilities, facility and supply commitments, budget considerations, and linkage and referral services.

SEC. 4. Section 18253 of the Welfare and Institutions Code is amended to read:

18253. Each county shall ensure that an evaluation of the pilot project is conducted to determine the cost and treatment effectiveness of outcomes such as family functioning and social performance, preventing placement in more restrictive environments, improving emotional and behavioral adjustments, school attendance, and academic performance for eligible children. Systems of care outcomes shall be included to the extent they are applicable to the target population.

SEC. 5. Section 18253.5 is added to the Welfare and Institutions Code, to read:

18253.5. Each county shall ensure that staff participating in the pilot projects have completed training provided or approved by the department, on providing individualized wrap-around services.

SEC. 6. Section 18254 of the Welfare and Institutions Code is amended to read:

18254. (a) Reimbursement rates for intensive wrap-around services, under this pilot project, shall be based on the average cost of rate classification levels 12 to 14, inclusive, in each county, minus the cost, if any, of concurrent out-of-home placement of those children.

(b) The annual maximum limit on funding available for the pilot project authorized by this chapter shall be based on the average cost,

determined pursuant to subdivision (a), for the number of service allocation slots assigned to each county.

(c) The department shall reimburse each county, for the purpose of providing intensive wrap-around services, up to 100 percent of the state share of nonfederal funds, to be matched by each county's share of cost as established by law, and to the extent permitted by federal law, up to 100 percent of the federal funds allocated for group home placements of eligible children, at the rate authorized pursuant to subdivision (a).

(d) State and, to the extent permitted by federal law, federal foster care funds shall remain with the administrative authority of the county welfare department, which may enter into an interagency agreement to transfer those funds, and shall be used to provide intensive wrap-around services.

(e) General Fund costs for the provision of benefits to eligible children pursuant to subdivision (c) of Section 18251 at rates authorized by subdivision (a) through the pilot project authorized by this chapter shall not exceed the costs which would otherwise have been incurred had the eligible children been placed in a group home.

SEC. 7. Section 18255 of the Welfare and Institutions Code is amended to read:

18255. This pilot project may be extended to any county that applies to, and is granted approval, by the department. The number of service allocation slots assigned to each county shall be determined by each county and approved by the department.

SEC. 8. Section 18256 of the Welfare and Institutions Code is amended to read:

18256. Each county shall evaluate its pilot project, prepare interim and final evaluations, and submit them to the appropriate committees of the Legislature and to the department. The interim report shall be submitted not later than six months following the start of the third year of the pilot project. The final report shall be submitted not later than six months following the end of the five-year pilot project. These reports shall assess the effectiveness of the pilot project authorized by this chapter. The reports shall include, but need not be limited to, all of the following:

(a) The effectiveness of the project in reducing the level of out-of-home services required, and in reducing the average length of stay in out-of-home care.

(b) A comparison of the cost of placement and services for children in the pilot project with the average cost of out-of-home placement for the same number of children.

(c) The effectiveness of the pilot project in assisting children and families in attaining their service goals.

SEC. 9. Section 18256.5 is added to the Welfare and Institutions Code, to read:

18256.5. At the end of a county's pilot project, in order to prevent disruption to the child, each child remaining in the pilot project shall

continue to receive all planned services specified in the child's individualized services plan until his or her case is closed.

SEC. 10. Section 18257 of the Welfare and Institutions Code is amended to read:

18257. This chapter shall become inoperative on October 1, 2003, and, as of April 1, 2004, is repealed, unless a later enacted statute, that becomes operative on or before April 1, 2004, deletes or extends the dates on which it becomes inoperative and is repealed.

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## CHAPTER 796

An act to add Article 14 (commencing with Section 398.1) to Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code, relating to public utilities.

[Approved by Governor October 8, 1997. Filed with Secretary of State October 9, 1997.]

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

SECTION 1. Article 14 (commencing with Section 398.1) is added to Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code, to read:

### Article 14. Disclosure of Sources of Electrical Generation

398.1. (a) The Legislature finds and declares that there is a need for reliable, accurate, and timely information regarding fuel sources for electric generation offered for retail sale in California.

(b) The purpose of this article is to establish a program under which entities offering electric services in California disclose accurate, reliable, and simple to understand information on the sources of energy that are used to provide electric services.

398.2. The definitions set forth in this section shall govern the construction of this article.

(a) "System operator" means the Independent System Operator with responsibility for the efficient use and reliable operation of the transmission grid, as provided by Section 345, or a local publicly owned electric utility that does not utilize the Independent System Operator.

(b) "Specific purchases" means electricity transactions which are traceable to specific generation sources by any auditable contract trail or equivalent, such as a tradable commodity system, that provides commercial verification that the electricity source claimed has been sold once and only once to a retail consumer. Retail suppliers may rely on annual data to meet this requirement, rather than hour-by-hour matching of loads and resources.

(c) "Net system power" means the mix of electricity fuel source types established by the California Energy Resources Conservation and Development Commission representing the sources of electricity consumed in California that are not disclosed as specific purchases pursuant to Section 398.4.

398.3. (a) Beginning January 1, 1998, or as soon as practicable thereafter, each generator that provides meter data to a system operator shall report to the system operator electricity generated in kilowatthours by hour by generator, the fuel type or fuel types and fuel consumption by fuel type by month on an historical recorded quarterly basis. Facilities using only one fuel type may satisfy this requirement by reporting fuel type only. With regard to any facility using more than one fuel type, reports shall reflect the fuel consumed as a percentage of electricity generation.

(b) The California Energy Resources Conservation and Development Commission shall have authorization to access the electricity generation data in kilowatthours by hour for each facility that provides meter data to the system operator, and the fuel type or fuel types.

(c) With regard to out-of-state generation, the California Energy Resources Conservation and Development Commission shall have authorization to access the electricity generation data in kilowatthours by hour at the point at which out-of-state generation is metered, to the extent the information has been submitted to a system operator.

(d) Trade secrets as defined in subdivision (d) of Section 3426.1 of the Civil Code contained in the information provided to the system operators pursuant to this section shall be treated as confidential. These data may be disclosed only by the system operators and only by authorization of the generator except that the California Energy Resources Conservation and Development Commission shall have authorization to access these data, shall consider all these data to be trade secrets, and shall only release these data in an aggregated form such that trade secrets cannot be discerned.

398.4. (a) Every retail supplier that makes an offering to sell electricity that is consumed in California shall disclose its electricity sources. A retail supplier that does not make any claims that identify its electricity sources as different than net system power may disclose net system power. Every retail supplier that makes an offering to sell electricity that is consumed in California and makes any claims that identify any of its electricity sources as different than net system power shall disclose these sources as specific purchases.

(b) The disclosures required by this section shall be made to potential end-use consumers in all product-specific written promotional materials that are distributed to consumers by either printed or electronic means, except that advertisements and notices in general circulation media shall not be subject to this requirement.

(c) The disclosures required by this section shall be made at least quarterly to end-use consumers of the offered electricity.

(d) The disclosures required by this section shall be made separately for each offering made by the retail supplier.

(e) On or before January 1, 1998, the California Energy Resources Conservation and Development Commission shall specify guidelines for the format and means for disclosure required by Section 398.3 and this section, based on the requirements of this article and subject to public hearing.

(f) The costs of making the disclosures required by this section shall be considered to be generation-related.

(g) The disclosures required by this section shall be expressed as a percentage of annual sales derived from each of the following categories, unless no specific purchases are disclosed, in which case only the first category shall be disclosed:

(1) Net system power.

(2) Specific purchases.

(h) (1) Each of the categories specified in subdivision (g) shall be additionally identified as a percentage of annual sales that is derived from each fuel type of the categories specified as follows:

(A) Coal.

(B) Large hydroelectric (greater than 30 megawatts).

(C) Natural gas.

(D) Nuclear.

(E) Other.

(F) Eligible renewables, which means renewable resource technologies defined as electricity produced from other than a conventional power source within the meaning of Section 2805, provided that a power source utilizing more than 25 percent fossil fuel may not be included, shall be additionally identified as a percentage of annual sales that is derived from each fuel type of the subcategories specified as follows:

(i) Biomass and waste.

(ii) Geothermal.

(iii) Small hydroelectric (less than or equal to 30 megawatts).

(iv) Solar.

(v) Wind.

(2) The category "Other" shall be used for fuel types other than those listed above that represent less than 2 percent of net system power. The California Energy Resources Conservation and Development Commission may specify additional categories or change these categories, consistent with the requirements of this article and subject to public hearing, if it determines that the changes will facilitate the disclosure objectives of this section.

(i) All electricity sources disclosed as specific purchases shall meet the requirements of subdivision (b) of Section 398.2.

(j) Specific purchases identified pursuant to this section shall be from sources connected to the Western Systems Coordinating Council interconnected grid.

(k) Net system power shall be disclosed for the most recent calendar year available. Disclosure of net system power shall be accompanied by this qualifying note: "The State of California determines this net system power mix annually; your actual electricity purchases may vary." The California Energy Resources Conservation and Development Commission may modify this note, consistent with the requirements of this article and subject to public hearing, if it determines that the changes will facilitate the disclosure objectives of this section.

(*l*) For each offering made by a retail supplier for which specific purchases are disclosed, the retail supplier shall disclose projected specific purchases for the current calendar year. Projected specific purchases need not be disclosed by numerical percentage at the subcategory level identified in subparagraph (F) of paragraph (1) of subdivision (h). On or before April 15, 1999, and annually thereafter, every retail supplier that discloses specific purchases shall also disclose to its customers, separately for each offering made by the retail supplier, its actual specific purchases for the previous calendar year consistent with information provided to the California Energy Resources Conservation and Development Commission pursuant to Section 398.5. Disclosure of projected specific purchases and actual specific purchases shall each be accompanied by statements identifying whether the data are projected or actual, as developed by the California Energy Resources Conservation and Development Commission, subject to public hearing.

(m) The provisions of this section shall not apply to generators providing electric service onsite, under an over-the-fence transaction as described in Section 218, or to an affiliate or affiliates, as defined in subdivision (a) of Section 372.

398.5. (a) Retail suppliers that disclose specific purchases pursuant to Section 398.4 shall report on March 1, 1999, and annually thereafter, to the California Energy Resources Conservation and Development Commission, for each electricity offering, for the previous calendar year each of the following:

(1) The kilowatthours purchased, by generator and fuel type during the previous calendar year, consistent with the meter data, including losses, reported to the system operator.

(2) For each electricity offering the kilowatthours sold at retail.

(3) For each electricity offering the disclosures made to consumers pursuant to Section 398.4.

(b) Information submitted to the California Energy Resources Conservation and Development Commission pursuant to this section that is a trade secret as defined in subdivision (d) of Section 3426.1 of the Civil Code shall not be released except in an aggregated form such that trade secrets cannot be discerned.

(c) On or before January 1, 1998, the California Energy Resources Conservation and Development Commission shall specify guidelines and standard formats, based on the requirements of this article and subject to public hearing, for the submittal of information pursuant to this article.

(d) In developing the rules and procedures specified in this section, the California Energy Resources Conservation and Development Commission shall seek to minimize the reporting burden and cost of reporting that it imposes on retail suppliers.

(e) On or before October 15, 1999, and annually thereafter, the California Energy Resources Conservation and Development Commission shall issue a report comparing information available pursuant to Section 398.3 with information submitted by retail suppliers pursuant to this section, and with information disclosed to consumers pursuant to Section 398.4. This report shall be forwarded to the California Public Utilities Commission.

(f) Beginning April 15, 1999, and annually thereafter, the California Energy Resources Conservation and Development Commission shall issue a report calculating net system power. The California Energy Resources Conservation and Development Commission will establish the generation mix for net generation imports delivered at interface points and metered by the system operators. The California Energy Resources Conservation and Development Commission shall issue an initial report calculating preliminary net system power for calendar year 1997 on or before January 1, 1998. This report shall be updated on or before October 15, 1998.

(g) The provisions of this section shall not apply to generators providing electric service on site, under an over-the-fence transaction as described in Section 218, or to an affiliate or affiliates, as defined in subdivision (a) of Section 372.

(h) The California Energy Resources Conservation and Development Commission may verify the veracity of environmental claims made by retail suppliers. In addition, the Energy Resources Conservation and Development Commission, in conjunction with the California Air Resources Board and affected air districts, shall issue a report to the Legislature by June 1, 1999, assessing the air emission effects of electric utility restructuring.

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.

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## CHAPTER 797

An act to add Chapter 8 (commencing with Section 1923) to Title 4 of Part 4 of the Civil Code, and to add Section 818.10 to the Government Code, relating to real property.

[Approved by Governor October 8, 1997. Filed with Secretary of State October 9, 1997.]

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

SECTION 1. Chapter 8 (commencing with Section 1923) is added to Title 4 of Part 4 of the Civil Code, to read:

### Chapter 8. Reverse Mortgages

1923. For purposes of this chapter, "reverse mortgage" means a nonrecourse loan secured by real property that meets all of the following criteria:

(a) The loan provides cash advances to a borrower based on the equity or the value in a borrower's owner-occupied principal residence.

(b) The loan requires no payment of principal or interest until the entire loan becomes due and payable.

(c) The loan is made by a lender licensed or chartered pursuant to the laws of this state or the United States.

1923.2. A reverse mortgage loan shall comply with all of the following requirements:

(a) Prepayment, in whole or in part, shall be permitted without penalty at any time during the term of the reverse mortgage loan. For the purposes of this section, penalty does not include any fees, payments, or other charges that would have otherwise been due upon the reverse mortgage being due and payable.

(b) A reverse mortgage loan may provide for a fixed or adjustable interest rate or combination thereof, including compound interest, and may also provide for interest that is contingent on the value of the property upon execution of the loan or at maturity, or on changes in value between closing and maturity.

(c) A reverse mortgage may include costs and fees that are charged by the lender, or the lender's designee, originator, or servicer, including costs and fees charged upon execution of the loan, on a periodic basis, or upon maturity.

(d) If a reverse mortgage loan provides for periodic advances to a borrower, these advances shall not be reduced in amount or number based on any adjustment in the interest rate.

(e) A lender who fails to make loan advances as required in the loan documents, and fails to cure an actual default after notice as specified in the loan documents, shall forfeit to the borrower treble the amount wrongfully withheld plus interest at the legal rate.

(f) The reverse mortgage loan may become due and payable upon the occurrence of any one of the following events:

(1) The home securing the loan is sold or title to the home is otherwise transferred.

(2) All borrowers cease occupying the home as a principal residence, except as provided in subdivision (h).

(3) Any fixed maturity date agreed to by the lender and the borrower occurs.

(4) An event occurs which is specified in the loan documents and which jeopardizes the lender's security.

(g) Repayment of the reverse mortgage loan shall be subject to the following additional conditions:

(1) Temporary absences from the home not exceeding 60 consecutive days shall not cause the mortgage to become due and payable.

(2) Extended absences from the home exceeding 60 consecutive days, but less than one year, shall not cause the mortgage to become due and payable if the borrower has taken prior action which secures and protects the home in a manner satisfactory to the lender, as specified in the loan documents.

(3) The lender's right to collect reverse mortgage loan proceeds shall be subject to the applicable statute of limitations for written loan contracts. Notwithstanding any other provision of law, the statute of limitations shall commence on the date that the reverse mortgage loan becomes due and payable as provided in the loan agreement.

(4) The lender shall prominently disclose in the loan agreement any interest rate or other fees to be charged during the period that commences on the date that the reverse mortgage loan becomes due and payable, and that ends when repayment in full is made.

(h) The first page of any deed of trust securing a reverse mortgage loan shall contain the following statement in 10-point boldface type: "This deed of trust secures a reverse mortgage loan."

1923.3. A reverse mortgage shall constitute a lien against the subject property to the extent of all advances made pursuant to the reverse mortgage and all interest accrued on these advances, and that lien shall have priority over any lien filed or recorded after recordation of a reverse mortgage loan.

1923.4. For the purposes of this chapter, a property shall be deemed to be owner-occupied, notwithstanding that the legal title to the property is held in the name of a trust, provided that the occupant of the property is a beneficiary of that trust.

1923.5. (a) No reverse mortgage loan application shall be taken by a lender unless the loan applicant has received from the lender the following plain language statement in conspicuous 16-point type or larger, advising the prospective borrower about counseling prior to obtaining the reverse mortgage loan:

IMPORTANT NOTICE

TO REVERSE MORTGAGE LOAN APPLICANT

THE REVERSE MORTGAGE WHICH YOU ARE CONSIDERING:

☐ DOES

☐ DOES NOT

REQUIRE THAT YOU PURCHASE AN ANNUITY IN CONNECTION WITH THE REVERSE MORTGAGE TRANSACTION.

A REVERSE MORTGAGE IS A COMPLEX FINANCIAL TRANSACTION THAT PROVIDES A MEANS OF USING THE EQUITY YOU HAVE BUILT UP IN YOUR HOME, OR THE VALUE OF YOUR HOME, AS A SOURCE OF ADDITIONAL INCOME. IF YOU DECIDE TO OBTAIN A REVERSE MORTGAGE LOAN, YOU WILL SIGN BINDING LEGAL DOCUMENTS THAT WILL HAVE IMPORTANT LEGAL AND FINANCIAL IMPLICATIONS FOR YOU AND YOUR ESTATE. IT IS THEREFORE IMPORTANT TO UNDERSTAND THE TERMS OF THE REVERSE MORTGAGE AND ITS EFFECT.

AS IS TRUE BEFORE ENTERING INTO ANY COMPLEX FINANCIAL ARRANGEMENT, IT IS WISE TO SEEK THE COUNSELING AND ADVICE OF APPROPRIATE PROFESSIONALS SUCH AS ATTORNEYS, FINANCIAL ADVISERS, AND ACCOUNTANTS. COUNSELORS TRAINED ON REVERSE MORTGAGES MAY ALSO BE AVAILABLE. YOU MAY ALSO WANT TO DISCUSS YOUR DECISION WITH FAMILY MEMBERS OR OTHERS ON WHOM YOU RELY FOR FINANCIAL ADVICE.

(b) Before giving the prospective borrower the statement described in subdivision (a), the lender shall mark the appropriate box concerning annuity requirements.

1923.6. The lender shall be presumed to have satisfied any disclosure duty imposed by this chapter if the lender provides a disclosure statement in the same form as provided in this chapter.

1923.7. No arrangement, transfer, or lien subject to this chapter shall be invalidated solely because of the failure of a lender to comply

with any provision of this chapter. However, nothing in this section shall preclude the application of any other existing civil remedies provided by law.

1923.9. (a) To the extent that implementation of this section does not conflict with federal law resulting in the loss of federal funding, reverse mortgage loan payments made to a borrower shall be treated as proceeds from a loan and not as income for the purpose of determining eligibility and benefits under means-tested programs of aid to individuals.

(b) Undisbursed reverse mortgage funds shall be treated as equity in the borrower's home and not as proceeds from a loan, resources, or assets for the purpose of determining eligibility and benefits under means-tested programs of aid to individuals.

(c) This section applies to any law or program relating to payments, allowances, benefits, or services provided on a means-tested basis, by this state, including, but not limited to, optional state supplements to the federal supplemental security income program, low-income energy assistance, property tax relief, general assistance, and medical assistance only to the extent this section does not conflict with Title 19 of the federal Social Security Act.

(d) For the purposes of this section, "means-tested programs and aid to individuals" includes, but is not limited to, programs set forth in Chapter 2 (commencing with Section 11200) of Part 3 of Division 9, and Part 5 (commencing with Section 17000) of Division 9, of the Welfare and Institutions Code.

1923.10. This chapter shall only apply to those reverse mortgage loans executed on or after January 1, 1998.

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## CHAPTER 798

An act to amend Section 1367.62 of the Health and Safety Code, and to amend Sections 510 and 10123.87 of, and to add Section 12995 to, the Insurance Code, relating to insurance, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 8, 1997. Filed with Secretary of State October 9, 1997.]

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

SECTION 1. Section 1367.62 of the Health and Safety Code, as added by Chapter 389 of the Statutes of 1997, is amended to read:

1367.62. (a) No health care service plan contract that is issued, amended, renewed, or delivered on or after the effective date of the act adding this section, that provides maternity coverage, shall do any of the following:

(1) Restrict benefits for inpatient hospital care to a time period less than 48 hours following a normal vaginal delivery and less than 96 hours following a delivery by caesarean section. However, coverage for inpatient hospital care may be for a time period less than 48 or 96 hours if both of the following conditions are met:

(A) The decision to discharge the mother and newborn before the 48- or 96-hour time period is made by the treating physicians in consultation with the mother.

(B) The contract covers a postdischarge followup visit for the mother and newborn within 48 hours of discharge, when prescribed by the treating physician. The visit shall be provided by a licensed health care provider whose scope of practice includes postpartum care and newborn care. The visit shall include, at a minimum, parent education, assistance and training in breast or bottle feeding, and the performance of any necessary maternal or neonatal physical assessments. The treating physician shall disclose to the mother the availability of a postdischarge visit, including an in-home visit, physician office visit, or plan facility visit. The treating physician, in consultation with the mother, shall determine whether the postdischarge visit shall occur at home, the plan's facility, or the treating physician's office after assessment of certain factors. These factors shall include, but not be limited to, the transportation needs of the family, and environmental and social risks.

(2) Reduce or limit the reimbursement of the attending provider for providing care to an individual enrollee in accordance with the coverage requirements.

(3) Provide monetary or other incentives to an attending provider to induce the provider to provide care to an individual enrollee in a manner inconsistent with the coverage requirements.

(4) Deny a mother or her newborn eligibility, or continued eligibility, to enroll or to renew coverage solely to avoid the coverage requirements.

(5) Provide monetary payments or rebates to a mother to encourage her to accept less than the minimum coverage requirements.

(6) Restrict inpatient benefits for the second day of hospital care in a manner that is less than favorable to the mother or her newborn than those provided during the preceding portion of the hospital stay.

(7) Require the treating physician to obtain authorization from the health care service plan prior to prescribing any services covered by this section.

(b) (1) Every health care service plan shall include notice of the coverage specified in subdivision (a) in the plan's evidence of coverage for evidences of coverage issued on or after January 1, 1998, and except as specified in paragraph (2), shall provide additional written notice of this coverage during the course of the enrollee's prenatal care. The contract may require the treating physician or the

enrollee's medical group to provide this additional written notice of coverage during the course of the enrollee's prenatal care.

(2) Health care service plans that issue contracts that provide for coverage of the type commonly referred to as "preferred provider organizations" shall provide additional written notice to all females between the ages of 10 and 50 who are covered by those contracts of the coverage under subdivision (a) within 60 days of the effective date of this act. The plan shall provide additional written notice of the coverage specified in subdivision (a) during the course of prenatal care if both of the following conditions are met:

(A) The plan previously notified subscribers that hospital stays for delivery would be inconsistent with the requirement in subparagraph (A) of paragraph (1) of subdivision (a).

(B) The plan received notice, whether by receipt of a claim, a request for preauthorization for pregnancy-related services, or other actual notice that the enrollee is pregnant.

(c) Nothing in this section shall be construed to prohibit a plan from negotiating the level and type of reimbursement with a provider for care provided in accordance with this section.

SEC. 2. Section 510 of the Insurance Code is amended to read:

510. Whenever a policy of insurance specified in Section 660 or 675, a policy of life insurance as defined in Section 101, a policy of disability insurance as defined in Section 106, or a certificate of coverage as defined in Section 10270.6, is first issued to or delivered to a new insured or a new policyholder in this state, the insurer shall include a written disclosure containing the name, address, and toll-free telephone number of the unit within the Department of Insurance that deals with consumer affairs. The telephone number shall be the same as that provided to consumers under Section 12921.1. The disclosure shall be printed in large, boldface type.

The disclosure shall contain, at the discretion of the insurer, either the address and telephone number of the insurer or the address and telephone number of the agent or broker of record, or both of those addresses and telephone numbers. The disclosure shall also contain a statement that the Department of Insurance should be contacted only after discussions with the insurer, or its agent or other representative, or both, have failed to produce a satisfactory resolution to the problem. If the policy or certificate was issued or delivered by an agent or broker, the disclosure shall specifically advise the insured to contact his or her agent or broker for assistance.

SEC. 3. Section 10123.87 of the Insurance Code, as added by Chapter 389 of the Statutes of 1997, is amended to read:

10123.87. (a) No individual or group policy of disability insurance that provides coverage for hospital, medical, and surgical benefits that is issued, amended, renewed, or delivered on or after the effective date of the act adding this section, that provides maternity coverage, shall do any of the following:

(1) Restrict benefits for inpatient hospital care to a time period less than 48 hours following a normal vaginal delivery and less than 96 hours following a delivery by caesarean section. However, coverage for inpatient hospital care may be for a time period less than 48 or 96 hours if both of the following conditions are met:

(A) The decision to discharge the mother and newborn before the 48- or 96-hour time period is made by the treating physicians in consultation with the mother.

(B) The policy covers a postdischarge followup visit for the mother and newborn within 48 hours of discharge, when prescribed by the treating physician. The visit shall be provided by a licensed health care provider whose scope of practice includes postpartum care and newborn care. The visit shall include, at a minimum, parent education, assistance and training in breast or bottle feeding, and the performance of any necessary maternal or neonatal physical assessments. The treating physician shall disclose to the mother the availability of a postdischarge visit, including an in-home visit, physician office visit, or a visit to a facility under contract with the insurer. The treating physician, in consultation with the mother, shall determine whether the postdischarge visit shall occur at home, the contracted facility, or the treating physician's office after assessment of certain factors. These factors shall include, but not be limited to, the transportation needs of the family, and environmental and social risks.

(2) Reduce or limit the reimbursement of the attending provider for providing care to an individual insured in accordance with the coverage requirements.

(3) Provide monetary or other incentives to an attending provider to induce the provider to provide care to an individual insured in a manner inconsistent with the coverage requirements.

(4) Deny a mother or her newborn eligibility, or continued eligibility, to enroll or to renew coverage solely to avoid the coverage requirements.

(5) Provide monetary payments or rebates to a mother to encourage her to accept less than the minimum coverage requirements.

(6) Restrict inpatient benefits for the second day of hospital care in a manner that is less than favorable to the mother or her newborn than those provided during the preceding portion of the hospital stay.

(7) Require the treating physician to obtain authorization from the insurer prior to prescribing any services covered by this section.

(b) (1) Every individual or group policy of disability insurance that provides coverage for hospital, medical, and surgical benefits shall include notice of the coverage specified in subdivision (a) in the insurer's evidence of coverage or certificate of insurance for evidences of coverage or certificates of insurance issued on or after January 1, 1998.

(2) Every insurer that issues a policy of disability insurance under paragraph (1) shall provide additional written notice to all females between the ages of 10 and 50 who are covered under those policies of the coverage under subdivision (a) within 60 days of the effective date of this act. The insurer shall provide additional written notice of the coverage specified in subdivision (a) during the course of prenatal care if both of the following conditions are met:

(A) The insurer previously notified policyholders that hospital stays for delivery would be inconsistent with the requirement in subparagraph (A) of paragraph (1) of subdivision (a).

(B) The insurer received notice, whether by receipt of a claim, a request for preauthorization for pregnancy-related services, or other actual notice that the insured is pregnant.

(c) Nothing in this section shall be construed to prohibit an insurer from negotiating the level and type of reimbursement with a provider for care provided in accordance with this section.

SEC. 4. Section 12995 is added to the Insurance Code, to read:

12995. (a) Notwithstanding any other provision of this code, all uncontested departmental billings for services or assessments authorized herein, which are not paid within 45 days of the invoice date, shall be subject to a late charge, unless waived or modified by the department. The late charge shall be $1^1/_2$ percent per month of the balance due. This late charge shall be compounded monthly.

(b) Billings from the department shall be postmarked within five working days of the invoice date. If the billing is postmarked more than five working days after the invoice date, the insurer shall be given 45 days from the date of the postmark to pay the amount due. In those instances where a billing is postmarked more than five working days after the invoice date, the insurer is required to submit the postmarked envelope with payment to avoid a late charge.

(c) Payments shall be postmarked by the due date to avoid a late charge. Except as provided in subdivision (d), contested billings for which the original amount is paid to the department after the 45 day period shall be subject to the late charge, unless waived or modified by the department. The insurer shall provide written notice of the contested billing and shall set forth the basis for the contestability in writing to the department prior to the due date.

(d) Late charges shall be tolled for the portion of the billing that is contested by an insurer. The commissioner shall consider the material submitted by the insurer and reach a decision on the contested billing within 30 days of receiving written notification that a billing is being contested. The commissioner's written decision on contested amounts shall be final and written notification, including a revised amount, if any, shall be provided indicating the basis for the decision. This written notification shall also include an invoice date from which an insurer shall be given 30 days to remit payment. This section shall not preclude an insurer from filing a petition for writ of

mandate in accordance with the provisions of the Code of Civil Procedure.

(e) All late charges collected pursuant to this section shall be deposited into the General Fund.

(f) This section shall not apply to the Insurance Department Schedule of Fees and Charges pursuant to Section 12978.

SEC. 5. In order to prevent any unnecessary waste of resources that might result from insurers' efforts to comply with Section 510 of the Insurance Code as amended by this act, an insurer may continue to use disclosure forms specified in Section 510 of the Insurance Code that were produced or printed prior to January 1, 1998, until current supplies are depleted or until December 31, 1998, whichever comes first.

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

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

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 protect the health of mothers and their newborns at the earliest possible time, it is necessary that this act take effect immediately.

SEC. 8. Notwithstanding Section 7 of this act, Sections 2, 4, and 5 shall not become operative until January 1, 1998.

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## CHAPTER 799

An act relating to human services.

[Approved by Governor October 8, 1997. Filed with Secretary of State October 9, 1997.]

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

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

(a) Graduate education for health professionals and the related health services provided by academic medical centers and teaching hospitals throughout the state represent a public benefit and valuable investment in the quality of care provided to the people of California.

(b) Major changes in the organization, delivery, and financing of health services have had a direct and profound effect on medical and other health professions' training programs, and on their associated teaching hospitals and clinics.

(c) The Legislature acknowledges that the multiple missions served by the state's academic medical centers and other clinical teaching programs represent a significant public benefit that merits continuing public support.

SEC. 2. (a) It is the intent of the Legislature that no later than January 16, 1998, the University of California initiate discussions with the State Department of Health Services and the California Medical Assistance Commission relating to the future funding of graduate medical education and other health professions' training programs. As part of these discussions, it is the intent of the Legislature that the parties consider all of the following in developing a set of specific objectives and parameters for any proposal developed under this section:

(1) The mission of academic medical centers and their associated teaching hospitals and clinics throughout the state in all of the following areas:

(A) The education and training of future generations of health providers.

(B) The provision of uncompensated care for the state's poor and medically indigent patients.

(C) The provision of care to underserved rural and inner city populations.

(D) The advancement of science and biomedical research.

(E) The provision of trauma and other specialty services.

(2) Traditional sources of funding for support of graduate medical education and other health professions' training programs, including state and federal appropriations, and clinical revenues.

(3) Recent and potential future changes in the organization and financing of health services including the potential restructuring of Medicare funding for graduate medical education, the current and potential future roles of the state and the private sector in supporting health professions' training programs, and the impact of changing delivery models and patient mix, including those associated with managed care.

(4) A review of the initiatives employed by academic medical centers and their associated health professions schools to adapt to fiscal constraints.

(b) In developing any proposal under this section, it is the intent of the Legislature that the convening parties consult with other California agencies, institutions, and organizations that are

significantly involved in the health professional education aspects of the health care field and that they review and consider approaches taken by other states. If a federal demonstration project or rule waiver, or both, are required to implement any proposal developed under this section, the department, as the medicaid single state agency, with the support and resources of the University of California and the California Medical Assistance Commission, shall pursue these in a timely manner, in accordance with Title 42 of the United States Code and any other applicable law.

(c) It is the intent of the Legislature that all of the following occur:

(1) The University of California submit a progress report by November 1, 1998, to the Governor and the health policy committees of each house of the Legislature on efforts regarding any proposal developed under this section.

(2) The University of California submit a final report by March 15, 1999, outlining the objectives and parameters of the proposal to the Legislature.

(d) It is the intent of the Legislature that the University of California have a lead role in the design and execution of the technical research aspects of any proposal developed under this section. Nothing in this section shall prohibit solicitation of additional sources of public and private funding to assist in the implementation of any proposal developed under this section.

(e) Appropriate state agencies shall seek all necessary federal approvals to implement any proposal developed under this section.

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## CHAPTER 800

An act to amend Sections 1799.90, 1799.91, 2985.7, 2986.3, 2986.4, 2986.13, and 2989.2 of, to add Section 2987 to, to repeal Section 2986.2 of, and to repeal and add Sections 2985.71 and 2985.8 of, the Civil Code, relating to motor vehicle leases.

[Approved by Governor October 8, 1997. Filed with Secretary of State October 9, 1997.]

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

SECTION 1. Section 1799.90 of the Civil Code is amended to read:

1799.90. As used in this title:

(a) “Consumer credit contract” means any of the following obligations to pay money on a deferred payment basis, where the money, property, services or other consideration which is the subject matter of the contract is primarily for personal, family or household purposes:

(1) Retail installment contracts, as defined in Section 1802.6.

(2) Retail installment accounts, as defined in Section 1802.7.
(3) Conditional sales contracts, as defined in Section 2981.
(4) Loans or extensions of credit secured by other than real property, or unsecured, for use primarily for personal, family or household purposes.
(5) Loans or extensions of credit for use primarily for personal, family or household purposes where such loans or extensions of credit are subject to the provisions of Article 7 (commencing with Section 10240) of Chapter 3 of Part I of Division 4 of the Business and Professions Code, Division 7 (commencing with Section 18000), Division 9 (commencing with Section 22000), or Division 10 (commencing with Section 24000) of the Financial Code, whether secured by real property or otherwise.
(6) Lease contracts, as defined in Section 2985.7.
(b) "Creditor" means an individual, partnership, corporation, association or other entity, however designated, who enters into or arranges for consumer credit contracts in the ordinary course of business.
SEC. 2. Section 1799.91 of the Civil Code is amended to read:
1799.91. (a) Unless the persons are married to each other, each creditor who obtains the signature of more than one person on a consumer credit contract shall deliver to each person who does not in fact receive any of the money, property, or services which are the subject matter of the consumer credit contract, prior to that person's becoming obligated on the consumer credit contract, a notice in English and Spanish in at least 10-point type as follows:

NOTICE TO COSIGNER (Traducción en Inglés Se Requiere Por La Ley)

You are being asked to guarantee this debt. Think carefully before you do. If the borrower doesn't pay the debt, you will have to. Be sure you can afford to pay if you have to, and that you want to accept this responsibility.
You may have to pay up to the full amount of the debt if the borrower does not pay. You may also have to pay late fees or collection costs, which increase this amount.
The creditor can collect this debt from you without first trying to collect from the borrower. The creditor can use the same collection methods against you that can be used against the borrower, such as suing you, garnishing your wages, etc. If this debt is ever in default, that fact may become a part of *your* credit record.
This notice is not the contract that makes you liable for the debt.

AVISO PARA EL FIADOR (Spanish Translation Required By Law)

Se le está pidiendo que garantice esta deuda. Piénselo con cuidado antes de ponerse de acuerdo. Si la persona que ha pedido este préstamo no paga la deuda, usted tendrá que pagarla. Esté seguro de que usted podrá pagar si sea obligado a pagarla y de que usted desea aceptar la responsabilidad.

Si la persona que ha pedido el préstamo no paga la deuda, es posible que usted tenga que pagar la suma total de la deuda, mas los cargos por tardarse en el pago o el costo de cobranza, lo cual aumenta el total de esta suma.

El acreedor (financiero) puede cobrarle a usted sin, primeramente, tratar de cobrarle al deudor. Los mismos metodos de cobranza que pueden usarse contra el deudor, podran usarse contra usted, tales como presentar una demanda en corte, quitar parte de su sueldo, etc. Si alguna vez no se cumpla con la obligación de pagar esta deuda, se puede incluir esa información en la historia de credito de usted.

Este aviso no es el contrato mismo en que se le echa a usted la responsabilidad de la deuda.

(b) Whenever notice is required to be given under subdivision (a) or (d) and the consumer credit contract is written in a language other than English or Spanish, the creditor shall deliver the notice as required in subdivision (a) or (d) in English and, in addition to or in lieu of Spanish, in the language in which the consumer contract is written.

(c) The requirements of subdivisions (a) and (b) do not apply to a creditor offering or extending open-end credit, as defined in Regulation Z, to joint applicants if all of the following conditions are satisfied:

(1) The application or agreement signed by each applicant clearly and conspicuously discloses that after credit approval each applicant shall have the right to use the open-end credit plan to the extent of any limit set by the creditor and may be liable for all amounts extended under the plan to any joint applicant.

(2) After credit approval, the creditor issues for the use of each applicant any credit device such as a credit card which may be used to obtain credit under the open-end credit plan and sends the credit device to the address specified in the application or otherwise delivers the credit device in a manner specified in the application or agreement signed by each applicant.

This paragraph does not apply to a creditor who does not issue a credit card or other credit device in order to obtain credit under the creditor's open-end credit plan.

(d) Unless the persons are married to each other, a lessor under a lease shall deliver to each person who does not in fact receive the

vehicle which is the subject of the lease contract, prior to that person becoming liable on the lease contract, the following notice in English and Spanish in at least 10-point type in lieu of the notice required by subdivision (a):

NOTICE TO COSIGNER (Traducción en Inglés Se Requiere Por La Ley)

You are being asked to guarantee this lease. Think carefully before you do. If the lessee doesn't pay, you will have to. Be sure you can afford to pay if you have to, and that you want to accept this responsibility.

You may have to pay up to the full amount owed on the lease if the lessee does not pay. You may also have to pay late fees or other collection costs, which increase this amount.

The lessor can collect on the lease from you without first trying to collect from the lessee. The lessor can use the same collection methods against you that can be used against the lessee, such as suing you, garnishing your wages, etc. If this lease is ever in default, that fact may become part of *your* credit record.

This notice is not the contract that makes you liable for the lease obligation.

AVISO PARA EL FIADOR (Spanish Translation Required By Law)

Se le está piediendo que garantice este arrendamiento. Piénselo con cuidado antes de ponerse de acuerdo. Si el arrendatario no paga, usted tendrá que pagar. Esté seguro de que usted podrá pagar si sea obligado a pagar y de que usted desea aceptar la responsabilidad.

Si el arrendatario no paga, es posible que usted tenga que pagar la suma total debida en el contrato de arrendamiento, más los cargos por tardarse en el pago o el costo de cobranza, los cuales aumentan el total de esta suma.

La compañía arrendadora puede cobrarle a usted por la suma debida en el arrendamiento, sin, primeramente, tratar de cobrarle al arrendatario. Los mismos métodos de cobranza que pueden usarse contra el arrendatario, podrán usarse contra usted, tales como presentar una demanda en corte, quitar parte de su sueldo, etc. Si alguna vez no se cumpla con la obligación del arrendamiento, se puede incluir esa información en la historia de credito de usted.

Este aviso no es el contrato mismo en que se le echa a usted la responsabilidad del arrendamiento.

(e) "Regulation Z" has the meaning set forth in Section 1802.18.

(f) The word "your" in the last sentence of the third paragraph of the notice in English set forth in subdivisions (a) and (d) shall be italicized.

SEC. 3. Section 2985.7 of the Civil Code is amended to read:

2985.7. (a) "Motor vehicle" means any vehicle required to be registered under the Vehicle Code. Motor vehicle does not include any trailer which is sold in conjunction with a vessel.

(b) "Lessor" includes "bailor" and is a person who is engaged in the business of leasing, offering to lease or arranging the lease of a motor vehicle under a lease contract.

For the purpose of this subdivision, "person" means an individual, partnership, corporation, limited liability company, estate, trust, cooperative, association or any other legal entity.

(c) "Lessee" includes "bailee" and is a natural person who leases, offers to lease or is offered the lease of a motor vehicle under a lease contract.

(d) "Lease contract" means any contract for or in contemplation of the lease or bailment for the use of a motor vehicle, and the purchase of services incidental thereto, by a natural person for a term exceeding four months, primarily for personal, family or household purposes, whether or not it is agreed that the lessee bear the risk of the motor vehicle's depreciation. Lease contract does not include a lease for agricultural, business or commercial purposes, or to a government or governmental agency or instrumentality.

(e) "Regulation M" means any rule, regulation, or interpretation promulgated by the Board of Governors of the Federal Reserve System under the federal Consumer Leasing Act (15 U.S.C. Secs. 1667-1667e), and any interpretation or approval issued by an official or employee of the Federal Reserve System duly authorized by the board to issue such interpretations or approvals.

(f) "Constant yield method" means the following:

(1) In the case of a periodic payment lease, the method of determining the rent charge portion of each base payment in which the rent charge for each computational period is earned in advance by multiplying the constant rate implicit in the lease contract times the balance subject to rent charge as it declines during the scheduled lease term. At any time during the scheduled term of a periodic payment lease, the balance subject to rent charge is the difference between the adjusted capitalized cost and the sum of (A) all depreciation and other amortized amounts accrued during the preceding computational periods and (B) the first base periodic payment.

(2) In the case of a single payment lease, the method of determining the periodic earning of rent charges in which the rent charge for each computational period is earned in advance by multiplying the constant rate implicit in the lease contract times the balance subject to rent charge as it increases during the scheduled lease term. At any time during the scheduled term of a single

payment lease, the balance subject to rent charge is determined by subtracting from the residual value the total rent charge scheduled to be earned over the term of the lease contract and adding to the difference all rent charges accrued during the preceding computational periods.

(3) Periodic rent charge calculations are based on the assumption that the lessor will receive the lease payments on their exact due dates and that the lease does not end before its scheduled termination date.

SEC. 4. Section 2985.71 of the Civil Code is repealed.

SEC. 5. Section 2985.71 is added to the Civil Code, to read:

2985.71. (a) Any solicitation to enter into a lease contract that includes any of the following items shall contain the disclosures described in subdivision (b):

(1) The amount of any payment.

(2) A statement of any capitalized cost reduction or other payment required prior to or at consummation or by delivery, if delivery occurs after consummation.

(3) A statement that no capitalized cost reduction or other payment is required prior to or at consummation or by delivery, if delivery occurs after consummation.

(b) A solicitation to enter into a lease contract that includes any item listed in subdivision (a) shall also clearly and conspicuously state all of the following items:

(1) All of the disclosures prescribed by Regulation M set forth in the manner required or permitted by Regulation M, whether or not Regulation M applies to the transaction.

(2) The mileage limit after which mileage charges may accrue and the charge per mile for mileage in excess of the stated mileage limit.

(3) The statement "Plus tax and license" or a substantially similar statement, if amounts due for use tax, license fees, and registration fees are not included in the payments.

(c) No solicitation to aid, promote, or assist directly or indirectly any lease contract may state that a specific lease of any motor vehicle at specific amounts or terms is available unless the lessor usually and customarily leases or will lease that motor vehicle at those amounts or terms.

(d) A failure to comply with the provisions of this section shall not affect the validity of the leasing contract. No owner or employee of any entity, other than the lessor, that serves as a medium in which a lease solicitation appears or through which a lease solicitation is disseminated, shall be liable under this section.

SEC. 6. Section 2985.8 of the Civil Code is repealed.

SEC. 7. Section 2985.8 is added to the Civil Code, to read:

2985.8. (a) Every lease contract shall be in writing and the print portion of the contract shall be printed in at least eight-point type and shall contain in a single document all of the agreements of the lessor and lessee with respect to the obligations of each party.

(b) At the top of the lease contract, a title which contains the words "LEASE CONTRACT" or "LEASE AGREEMENT" shall appear in at least 12-point bold type.

(c) Every lease contract shall disclose all of the following:

(1) All of the information prescribed by Regulation M set forth in the manner required or permitted by Regulation M, whether or not Regulation M applies to the transaction.

(2) A separate statement labeled "Itemization of Gross Capitalized Cost" that shall appear immediately following or directly adjacent to the disclosures required to be segregated by Regulation M. The Itemization of Gross Capitalized Cost shall include all of the following and shall be circumscribed by a line:

(A) The agreed-upon value of the vehicle.

(B) The aggregate amount of premiums agreed to be included for policies of insurance.

(C) The aggregate amount charged for service contracts.

(D) Any outstanding prior credit or lease balance.

(E) An itemization by type and amount of other items included in the "gross capitalized cost" disclosed pursuant to Regulation M.

(3) The vehicle identification number of the leased vehicle.

(4) A brief description of any trade-in vehicle and the agreed-upon value thereof if the amount due at lease signing or delivery is paid with a net trade-in allowance or the "Itemization of Gross Capitalized Cost" includes any outstanding prior credit or lease balance from the trade-in vehicle.

(5) The fee, if any, to be retained by the lessor for document preparation, which fee shall not exceed forty-five dollars ($45) and shall not be represented as a governmental fee.

(d) Every lease contract shall contain, in at least eight-point bold type, above the space provided for the lessee's signature and circumscribed by a line, the following notice: "(1) Do not sign this lease before you read it or if it contains any blank spaces to be filled in; (2) You are entitled to a completely filled in copy of this lease; (3) Warning—Unless a charge is included in this lease for public liability or property damage insurance, payment for that coverage is not provided by this lease."

(e) Every lease contract shall contain, in at least eight-point bold type, on the first page of the contract and circumscribed by a line, the following notice:

"THERE IS NO COOLING OFF PERIOD

California law does not provide for a "cooling off" or other cancellation period for vehicle leases. Therefore, you cannot later cancel this lease simply because you change your mind, decided the vehicle costs too much, or wish you had acquired a different vehicle. You may cancel this lease only with the agreement of the lessor or for

legal cause, such as fraud."

(f) Every lease contract shall contain, in at least eight-point bold type, the following notice: "You have the right to return the vehicle, and receive a refund of any payments made if the credit application is not approved, unless nonapproval results from an incomplete application or from incorrect information provided by you."

(g) The lease contract shall be signed by the lessor and lessee, or their authorized representatives, and an exact copy of the fully executed lease contract shall be provided to the lessee at the time of signing.

(h) No motor vehicle shall be delivered under a lease contract subject to this chapter until the lessor provides to the lessee a fully executed copy of the lease contract.

(i) The lessor shall not obtain the signature of the lessee to a contract when it contains blank spaces to be filled in after it has been signed.

(j) If the lease contract contains a provision that holds the lessee liable for the difference between (1) the adjusted capitalized cost disclosed in the lease contract reduced by the amounts described in subparagraph (A) of paragraph (5) of subdivision (b) of Section 2987 and (2) the settlement proceeds of the lessee's required insurance and deductible in the event of theft or damage to the vehicle that results in a total loss, the lease contract shall contain the following notice in at least eight-point boldface type on the first page of the contract:

"GAP LIABILITY NOTICE

In the event of theft or damage to the vehicle that results in a total loss, there may be a GAP between the amount due upon early termination and the proceeds of your insurance settlement and deductible. THIS LEASE PROVIDES THAT YOU ARE LIABLE FOR THE GAP AMOUNT. Optional coverage for the GAP amount may be offered for an additional price."

(k) This section shall become mandatory with respect to lease contracts entered into on and after March 1, 1998. However, with respect to lease contracts entered into prior to March 1, 1998, a person who complies with this section shall be deemed to have complied with Section 2985.8 as added by Chapter 1284 of the Statutes of 1976.

SEC. 8. Section 2986.2 of the Civil Code is repealed.

SEC. 9. Section 2986.3 of the Civil Code is amended to read:

2986.3. No lease contract shall contain any provision by which:

(a) A power of attorney is given to confess judgment in this state, or an assignment of wages is given; provided that nothing herein contained shall prohibit the giving of an assignment of wages contained in a separate instrument pursuant to Section 300 of the Labor Code.

(b) The lessee waives any right of action against the lessor or holder of the contract or other person acting on his or her behalf for any illegal act committed in the collection of payments under the contract or in the repossession of the motor vehicle.

(c) The lessee relieves the lessor from liability for any legal remedies which the lessee may have against the lessor under the contract or any separate instruments executed in connection therewith.

(d) The lessor or holder of the contract is given the right to commence action on a contract under the provisions of this chapter in a county other than the county in which the contract was in fact signed by the lessee, the county in which the lessee resides at the commencement of the action, the county in which the lessee resided at the time the contract was entered into or in the county in which the motor vehicle leased pursuant to such contract is permanently garaged.

SEC. 10. Section 2986.4 of the Civil Code is amended to read:

2986.4. Any acknowledgment by the lessee of delivery of a copy of a lease contract or purchase order and any vehicle lease proposal and any credit statement which the lessor has required or requested the lessee to sign, and which the lessee has signed, during the contract negotiations, shall be printed or written in size equal to at least 10-point bold type and, if contained in the contract, shall appear directly above the space reserved for the lessee's signature. The lessee's written acknowledgment, conforming to the requirements of this section, of delivery of a completely filled in copy of the contract, and a copy of such other documents shall be a rebuttable presumption of delivery in any action or proceeding by or against a third party without knowledge to the contrary when he or she acquired his or her interest in the contract. If such third party furnishes the lessee a copy of such documents, or a notice containing items set forth in subdivision (c) of Section 2985.8, and stating that the lessee shall notify such third party in writing within 30 days if he or she was not furnished a copy of such documents, and no such notification is given, it shall be conclusively presumed in favor of such a third party that copies of the documents were furnished as required by this chapter.

SEC. 11. Section 2986.13 of the Civil Code is amended to read:

2986.13. (a) Any payment made by a lessee to a lessor pending the execution of a lease contract shall be refunded to the lessee in the event the lease contract is not executed.

(b) In the event of breach by the lessor of a lease contract where the lessee leaves his or her motor vehicle with the lessor as a trade-in downpayment and the motor vehicle is not returned by the lessor to the lessee for whatever reason, the lessee may recover from the lessor either the fair market value of the motor vehicle left as a downpayment or its value as stated in the lease contract, whichever

is greater. The recovery shall be tendered to the lessee within five business days after the breach.

(c) The remedies of the buyer provided for in subdivision (b) are nonexclusive and cumulative and shall not preclude the lessee from pursuing any other remedy which he or she may have under any other provision of law.

SEC. 12. Section 2987 is added to the Civil Code, to read:

2987. (a) A lessee has the right to terminate a lease contract at any time prior to the scheduled expiration date specified in the lease contract. Except as provided in subdivision (f), all of the following subdivisions of this section apply in the event of an early termination.

(b) The lessee's liability shall not exceed the sum of the following:

(1) All unpaid periodic lease payments that have accrued up to the date of termination.

(2) All other amounts due and unpaid by the lessee under the lease contract, other than excess wear and mileage charges and unpaid periodic lease payments.

(3) Any charges, however denominated, that the lessor or holder of the lease contract may assess in connection with termination not to exceed in the aggregate the amount of a reasonable disposition fee, if any, disclosed in the lease contract and assessed upon termination of the lease contract.

(4) In the event of the lessee's default, reasonable fees paid by the lessor or holder for reconditioning of the leased vehicle and reasonable and necessary fees paid by the lessor or holder, if any, in connection with the repossession and storage of the leased vehicle.

(5) The difference, if any, between the adjusted capitalized cost disclosed in the lease contract and the sum of (A) all depreciation and other amortized amounts accrued through the date of early termination, calculated in accordance with the constant yield or other generally accepted actuarial method, and (B) the realized value of the vehicle as provided in subdivision (c).

(c) Subject to subdivision (d), the realized value of the vehicle used to calculate the lessee's liability under paragraph (5) of subdivision (b) shall be (1) if the lessee maintains insurance on the leased vehicle as required in the lease contract and the vehicle is a total loss as a result of theft or damage, the amount of any applicable insurance deductible owed by the lessee and the proceeds of the settlement of the insurance claim, unless a higher amount is agreed to by the holder of the lease contract, (2) if the lessee elects to have an appraisal conducted as provided in Regulation M, the value determined on appraisal, (3) if the holder of the lease contract or lessor elects to retain ownership of the vehicle for use or to lease to a subsequent lessee, the wholesale value of the vehicle as specified in the current edition of a recognized used vehicle value guide customarily used by California motor vehicle dealers to value vehicles in this state, including, but not limited to, the Kelley Blue Book Auto Market Report and the N.A.D.A. Official Used Car Guide,

or (4) under all other circumstances, the higher of (A) the price paid for the vehicle upon disposition, or (B) any other amount established by the lessor or the lease contract.

(d) (1) The lessor or holder of the lease contract shall act in good faith and in a commercially reasonable manner in connection with the disposition of the vehicle.

(2) In addition to the requirements of paragraph (1), any disposition of the vehicle shall be preceded by a notice complying with both of the following:

(A) The notice shall be in writing and given by the holder of the contract to each lessee and guarantor at least 10 days in advance of any disposition or the date by which the value of the vehicle will be determined pursuant to paragraph (3) of subdivision (c). The notice shall be personally served or shall be sent by certified mail, return receipt requested, or first-class mail, postage prepaid, directed to the last known address of each lessee and guarantor. One notice is sufficient if those persons are married to each other and the most recent records of the holder of the lease contract indicate that they reside at the same address. The last known address of each lessee and guarantor shall be presumed to be the address stated in the lease contract or guaranty for each lessee and guarantor unless the lessee or guarantor notifies the holder of the lease contract of a change of address.

(B) The notice shall set forth (i) the time and place of any public sale, the time on or after which a private sale or other intended disposition is to be made, or the date by which the value of the vehicle will be determined pursuant to paragraph (3) of subdivision (c), (ii) an itemization of all amounts claimed under paragraphs (1) to (4), inclusive, of subdivision (b), (iii) the amount of the difference between the adjusted capitalized cost and the sum of all depreciation and other amortized amounts paid through the date of early termination as provided in paragraph (5) of subdivision (b), (iv) the total of these amounts identified as the "Gross Early Termination Amount," and (v) one of the following statements, whichever is applicable:

[To be inserted when the realized value will be determined pursuant to paragraph (3) of subdivision (c)]

"The amount you owe for early termination will be no more than the difference between the Gross Early Termination Amount stated above and (1) the appraised value of the vehicle or (2) if there is no appraisal, the wholesale value specified in a recognized used vehicle value guide.

You have the right to get a professional appraisal to establish the value of the vehicle for the purpose of figuring how much you owe on the lease. If you want an appraisal, you will have to arrange for it to be completed at least three days before the scheduled valuation date. The appraiser has to be an independent person acceptable to the holder of the lease. You will have to pay for the appraiser. The

appraised value will be considered final and binding on you and the holder of the lease."

[To be inserted in all other circumstances]

"The amount you owe for early termination will be no more than the difference between the Gross Early Termination Amount stated above and (1) the appraised value of the vehicle or (2) if there is no appraisal, either the price received for the vehicle upon disposition or a greater amount established by the lessor or the lease contract.

You have the right to get a professional appraisal to establish the value of the vehicle for the purpose of figuring how much you owe on the lease. If you want an appraisal, you will have to arrange for it to be completed at least three days before the scheduled sale date of the vehicle. The appraiser has to be an independent person acceptable to the holder of the lease. You will have to pay for the appraiser. The appraised value will be considered final and binding on you and the holder of the lease."

(3) The lessee shall have no liability under subdivision (b) if the lessor or holder of the lease contract does not comply with this subdivision. This paragraph does not apply under all the following conditions:

(A) Noncompliance was the result of a bona fide error in stating an amount required to be disclosed pursuant to clause (ii), (iii), or (iv) of subparagraph (B) of paragraph (2).

(B) The holder of the lease gives the lessee written notice of the error within 30 days after discovering the error and before (i) an action is filed to recover the amount claimed to be owed or (ii) written notice of the error is received by the holder of the lease from the lessee.

(C) The lessee is liable for the lesser of the originally claimed amount or the correct amount.

(D) The holder of the lease refunds any amount collected in excess of the amount described in subparagraph (C) within 10 days after notice of the error is given. "Bona fide error," as used in this paragraph, means an error that was not intentional and occurred notwithstanding the maintenance of procedures reasonably adapted to avoid that error. Examples of a bona fide error include clerical errors, calculation errors, errors due to unintentionally improper computer programming or data entry, and printing errors, but does not include an error of legal judgment with respect to a lessor's or lease contractholder's obligations under this section.

(4) This subdivision does not apply when the lessee maintains insurance on the leased vehicle as required in the lease contract and the vehicle is declared a total loss by the insurer as a result of theft or damage.

(e) The lessor or holder of the lease contract shall credit any security deposit or advance rental payment held by the lessor or holder of the lease contract against the lessee's liability under the lease contract as limited by this section. The portion of a security

deposit or advance rental payment, if any, remaining after the lessee's liability under the lease contract as limited by this section has been satisfied shall be returned to the lessee within 30 days of the satisfaction of the obligation.

(f) Subdivisions (b) to (d), inclusive, do not apply if, prior to the scheduled expiration date specified in the lease contract, the lessee terminates the lease and purchases the vehicle or trades in the vehicle in connection with the purchase or lease of another vehicle. In such an event, the selling price of the leased vehicle, exclusive of taxes and other charges incidental to the sale, shall not exceed the sum of the following and shall relieve the lessee of any further liability under the lease contract:

(1) All unpaid periodic lease payments that have accrued up to the date of termination.

(2) All other amounts due and unpaid by the lessee under the lease contract, other than excess wear and mileage charges and unpaid periodic lease payments.

(3) Any charges, however denominated, that the lessor or holder of the lease contract may assess in connection with termination of the lease contract and the acquisition of the vehicle, not to exceed in the aggregate the amount of a reasonable purchase option fee, if any, disclosed in the lease contract and assessed upon the scheduled termination of the lease contract.

(4) The adjusted capitalized cost disclosed in the lease contract less all depreciation and other amortized amounts accrued through the date of early termination, calculated in accordance with the constant yield or other generally accepted actuarial method.

(g) If the lessee terminates a lease contract, voluntarily returns possession of the vehicle to the lessor, and timely pays all sums required under the lease contract as limited by this section, the lessor or holder shall not provide any adverse information concerning the early termination to any consumer credit reporting agency.

(h) The Rule of 78 shall not be used to calculate accrued rent charges.

(i) This section shall only apply to lease contracts entered into on and after January 1, 1998.

SEC. 13. Section 2989.2 of the Civil Code is amended to read:

2989.2. Where the lessee is to bear the risk of the motor vehicle's depreciation upon the scheduled expiration of the lease contract, the following applies:

(a) When disposing of a vehicle or obtaining cash bids for the purpose of setting the fair market value of a vehicle, the lessor shall act in a commercially reasonable manner in the customary market for such vehicle.

(b) Any provision in a lease contract to the contrary notwithstanding, at least 10 days written notice of intent to sell such motor vehicle shall be given by the holder of the contract to each lessee and guarantor, unless the lessor and lessee have agreed in

writing to the amount of the lessee's liability under the lease contract after the lessee returns the motor vehicle to the lessor, or the lessee has satisfied the lease contract obligations by payment to the lessor. The notice shall be personally served or shall be sent by certified mail, return receipt requested, directed to the address of the lessee shown on the contract, unless the lessee has notified the holder in writing of a different address. The notice shall set forth separately any charges or sums due and state that the lessee will be liable for the difference between the amount of liability imposed on the lessee at the expiration of the lease term and the actual cash value of the motor vehicle when it is sold. The notice shall also state that the lessee has the right to submit a cash bid for the purchase of the vehicle.

SEC. 14. Section 6 of this act shall become operative on March 1, 1998.

SEC. 15. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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

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## CHAPTER 801

An act to amend Section 44011 of the Health and Safety Code, and to amend Section 4000.1 of the Vehicle Code, relating to air pollution.

[Approved by Governor October 8, 1997. Filed with Secretary of State October 9, 1997.]

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

SECTION 1. Section 44011 of the Health and Safety Code is amended to read:

44011. (a) All motor vehicles powered by internal combustion engines which are registered within an area designated for program coverage shall be required biennially to obtain a certificate of compliance or noncompliance, except for all of the following:

(1) Every motorcycle, and every diesel-powered vehicle, until the department, pursuant to Section 44012, implements test procedures applicable to motorcycles or to diesel-powered vehicles, or both.

(2) Any motor vehicle which has been issued a certificate of compliance or noncompliance or an emission cost waiver upon a change of ownership or initial registration in this state during the preceding six months, or which has been issued a certificate of exemption pursuant to Section 4000.6 or 4000.7 of the Vehicle Code.

(3) Prior to January 1, 2003, any motor vehicle manufactured prior to the 1974 model-year.

(4) Beginning January 1, 2003, any motor vehicle that is 30 or more model-years old.

(5) Any other motor vehicle that the department determines would present prohibitive inspection or repair problems.

(6) Any vehicle registered to the owner of a fleet licensed pursuant to Section 44020 if the vehicle is garaged exclusively outside the area included in program coverage, and is not primarily operated inside the area included in program coverage.

(b) Vehicles designated for program coverage in enhanced areas shall be required to obtain inspections from appropriate smog check stations operating in enhanced areas.

SEC. 2. Section 4000.1 of the Vehicle Code is amended to read:

4000.1. (a) Except as otherwise provided in subdivision (b), (c), or (d) of this section, or subdivision (b) of Section 43654 of the Health and Safety Code, the department shall require upon initial registration, and upon transfer of ownership and registration, of any motor vehicle subject to Part 5 (commencing with Section 43000) of Division 26 of the Health and Safety Code, and upon registration of a motor vehicle previously registered outside this state which is subject to those provisions of the Health and Safety Code, a valid certificate of compliance or a certificate of noncompliance, as appropriate, issued in accordance with Section 44015 of the Health and Safety Code.

(b) With respect to new vehicles certified pursuant to Chapter 2 (commencing with Section 43100) of Part 5 of Division 26 of the Health and Safety Code, the department shall accept a statement completed pursuant to subdivision (b) of Section 24007 in lieu of the certificate of compliance.

(c) For purposes of determining the validity of a certificate of compliance or noncompliance submitted in compliance with the requirements of this section, the definitions of new and used motor vehicle contained in Chapter 2 (commencing with Section 39010) of Part 1 of Division 26 of the Health and Safety Code shall control.

(d) Subdivision (a) does not apply to a transfer of ownership and registration under any of the following circumstances:

(1) In any district in which biennial certification is required and a valid certificate was issued in connection with the most recent renewal of registration of the vehicle, and the transfer occurred not more than 60 days following the date by which that renewal of registration was required.

(2) The transferor is either the parent, grandparent, sibling, child, grandchild, or spouse of the transferee.
(3) A vehicle registered to a sole proprietorship is transferred to the proprietor as owner.
(4) The transfer is between companies whose principal business is leasing vehicles, if there is no change in the lessee or operator of the vehicle or between the lessor and the person who has been, for at least one year, the lessee's operator of the vehicle.
(5) The transfer is between the lessor and lessee of the vehicle, if there is no change in the lessee or operator of the vehicle.
(6) Prior to January 1, 2003, the motor vehicle was manufactured prior to the 1974 model-year.
(7) Beginning January 1, 2003, the motor vehicle is 30 or more model-years old.
(e) The State Air Resources Board, under Part 5 (commencing with Section 43000) of Division 26 of the Health and Safety Code, may exempt designated classifications of motor vehicles from subdivision (a) as it deems necessary, and shall notify the department of that action.
(f) Subdivision (a) does not apply to a motor vehicle when an additional individual is added as a registered owner of the vehicle.

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## CHAPTER 802

An act to amend Sections 44003, 44021, 44037.1, 44060, 44081, 44091, and 44101 of, to add Section 44024.5 to, and to add and repeal Section 44091.1 of, the Health and Safety Code, to amend Section 6262 of the Revenue and Taxation Code, and to repeal Section 4000.7 of the Vehicle Code, relating to air pollution.

[Approved by Governor October 8, 1997. Filed with Secretary of State October 9, 1997.]

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

SECTION 1. It is the intent of the Legislature to identify new funding sources for the High Polluter Repair or Removal Account created by Section 44091 of the Health and Safety Code to provide financial assistance to motorists in the state who own high-polluting vehicles.
SEC. 2. Section 44003 of the Health and Safety Code is amended to read:
44003. (a) (1) An enhanced motor vehicle inspection and maintenance program is established in each urbanized area of the state, any part of which is classified by the Environmental Protection Agency as a serious, severe, or extreme nonattainment area for ozone or a moderate or serious nonattainment area for carbon monoxide

with a design value greater than 12.7 ppm, and in other areas of the state as provided in this chapter.

(2) The enhanced motor vehicle inspection and maintenance program established pursuant to paragraph (1) shall be assessed jointly by the department and the state board periodically to determine whether changes in the program may be warranted. On or before January 1, 2003, the department and the state board shall jointly issue a report to the Legislature based on those periodic assessments, recommending any modifications to the enhanced program to improve its operations and lessen its impact on consumers while still achieving the necessary emission reductions to attain air quality standards.

(3) A basic vehicle inspection and maintenance program shall be continued in all other areas of the state where a program was in existence under this chapter as of the effective date of this paragraph.

(b) The department may prescribe different test procedures and equipment requirements for those areas described in subdivision (a). Program components shall be operated in all program areas unless otherwise indicated, as determined by the department. In those areas where the biennial program is not implemented and smog check inspections are required to complete the requirements set forth in Sections 4000.1 and 4000.2 of the Vehicle Code, program elements that apply in basic areas, including test equipment requirements for smog check stations, shall apply.

(c) (1) Districts classified as attainment areas may request the department to implement all or part of the program elements defined in this chapter. However, the department shall not implement the program established by Section 44010.5 in any area other than an urbanized area, any part of which is classified by the Environmental Protection Agency as a serious, severe, or extreme nonattainment area for ozone or a moderate or serious nonattainment area for carbon monoxide with a design value greater than 12.7 ppm.

(2) Districts that include areas classified as basic program nonattainment areas pursuant to subdivision (a) may, except as provided in paragraph (1), request the implementation in those areas of test procedures and equipment required for enhanced program areas and any other program requirement specified for enhanced program areas.

SEC. 3. Section 44021 of the Health and Safety Code is amended to read:

44021. (a) (1) The Inspection and Maintenance Review Committee is hereby created to analyze the effect of the improved inspection and maintenance program established by this chapter on motor vehicle emissions and air quality. The functions of the review committee shall be advisory in nature and primarily pertain to the gathering, analysis, and evaluation of information.

(2) The members of the review committee shall receive no compensation, but shall be reimbursed by the department for their reasonable expenses in performing committee duties. The state board and the department shall provide the review committee with any necessary technical and clerical support in its evaluation and study.

(3) (A) The review committee shall consist of 13 members, nine to be appointed by the Governor, two by the Senate Committee on Rules, and two by the Speaker of the Assembly. All members shall be appointed to four-year terms, and the Governor shall appoint from among his or her appointees the chairperson of the review committee.

(B) The appointees of the Governor shall include an air pollution control officer from an enhanced program nonattainment area, three public members, an expert in air quality, an economist, a social scientist, a representative of the inspection and maintenance industry, and a representative of stationary source emissions organizations.

(C) The appointees of the Senate Committee on Rules shall include an environmental member with expertise in air quality, and a representative from the inspection and maintenance industry.

(D) The appointees of the Speaker of the Assembly shall include an environmental member with expertise in air quality, and a representative of a local law enforcement agency charged with prosecuting violations of this chapter in an enhanced program nonattainment area.

(4) In preparing its evaluations of program effectiveness as provided in paragraph (1), the review committee shall consult with the Department of the California Highway Patrol, the Department of Motor Vehicles, and any other appropriate agencies, as well as the department and the state board, shall schedule and conduct periodic meetings in the performance of its duties, and shall meet and consult with local, state, and federal officials involved in the evaluation of motor vehicle inspection and maintenance programs. At the request of the committee, the department or the state board may, on behalf of the committee, contract with independent entities to assist in the committee's evaluations.

(b) The review committee shall submit periodic written reports to the Legislature and the Governor on the performance of the program and make recommendations on program improvements at least every 12 months. The review committee's reports shall quantify the reduction in emissions and improvement in air quality attributed to the program. Any reports, other than those required by this section, that the review committee is required to provide pursuant to this chapter shall also be transmitted to the Secretary for Environmental Protection and the Secretary for State and Consumer Services.

(c) The review committee shall work closely with all interested parties in preparing the information required by subdivisions (a) and (b) and shall consider the reports provided pursuant to subdivision (e). The review committee shall hold at least one public hearing on its findings and recommendations prior to submitting its reports. The reports shall include statutory language to implement its recommendations, and shall recommend the timeframe for making any changes to the program. The review committee shall seek comments from the department, the Department of Motor Vehicles, the Department of the California Highway Patrol, and the state board prior to submitting its reports, and those comments shall be published as an appendix to the report.

(d) The review committee shall participate in the demonstration program authorized by Section 44081.6, as provided by that section.

(e) The state board, in cooperation with the department, shall periodically submit reports to the review committee. The reports shall include an assessment of the impact on emissions of continuing the exemption from inspection of motor vehicles newer than five years old; a comparison of the actual mass emission reductions being achieved by the enhanced program to those required by the State Implementation Plan; and recommendations to improve the effectiveness and cost-effectiveness of the program, including specific recommendations addressing any discrepancy between emissions achieved and those in the State Implementation Plan. The first report shall be submitted not later than January 1, 2000, and reports shall be submitted triennially thereafter. In preparing the reports, the state board shall use data collected during inspections and repair, and data collected using roadside measurements, and may conduct additional testing, as determined to be necessary, to accurately quantify the mass emissions reduced.

SEC. 4. Section 44024.5 is added to the Health and Safety Code, to read:

44024.5. (a) The department shall compile and maintain statistical and emissions profiles of motor vehicles that are subject to the motor vehicle inspection program. The department may use data from any source, including remote sensing data and other motor vehicle inspection program data, to develop and confirm the validity of the profiles.

(b) The department, in cooperation with the state board, shall perform periodic analyses of the statistical and emissions profiles created pursuant to subdivision (a). The department and the state board, in consultation with the Inspection and Maintenance Review Committee, may determine that, in addition to the vehicles excepted pursuant to Section 44011, certain other motor vehicles may be excepted from the biennial certification requirements of this chapter without significantly compromising the emission reduction objectives set forth in the State Implementation Plan (SIP).

(c) The department may conduct a pilot program to except from the biennial certification requirement those vehicles that may be jointly determined by the department and the state board, after consultation with the Inspection and Maintenance Review Committee, to warrant exception. The department shall provide written notification to the Legislature specifying the number of vehicles to be exempted as well as the geographic location and duration of the pilot program not less than 30 days prior to the implementation of the pilot program. The department shall submit the results of the pilot program to the state board and the Inspection and Maintenance Review Committee for review. Subject to the approval of the Environmental Protection Agency as an amendment to the SIP, the department may establish the exception program as a permanent program.

(d) For vehicles four model years old or less, the department shall use test data generated pursuant to Section 44014.7 to develop statistical and emissions profiles. The department may use data from any source, including remote sensing data, warranty repair and recall data, and other motor vehicle inspection program data, to develop and confirm the validity of the data. If the department and state board jointly determine that the emissions from a class of motor vehicles would potentially compromise the emission reduction objectives set forth in the SIP, the state board shall consider appropriate corrective action, including, but not limited to, recall pursuant to Section 43105.

SEC. 5. Section 44037.1 of the Health and Safety Code is amended to read:

44037.1. (a) On or before January 1, 1995, the department shall design and establish the equipment necessary to operate a centralized computer data base and computer network that is readily accessible by all licensed smog check technicians on a real time basis.

(b) The centralized computer data base and network shall be designed with all of the following capabilities:

(1) To provide smog check technicians with immediate access to vehicle-specific information regarding the location of all emission control equipment, pattern failure data, and other vehicle-specific technical information relevant to the efficient identification, diagnosis, and repair of emission problems.

(2) To provide smog check technicians and the department with information as to the date and result of prior smog check tests performed on each vehicle to discourage vehicle owners from shopping for certificates of compliance and to permit the department to identify smog check stations for further investigation as potential violators of this chapter.

(3) To provide the department with data on the failure rates and repair effectiveness for vehicles of each make and model year on a statewide basis, and by smog check station and technician, to

facilitate identification of smog check stations and technicians as potential violators of this chapter.

(4) Upon a determination that a smog check station or technician has engaged in a pattern of conduct violating this chapter, or that a vehicle failed one or more emissions tests before obtaining a certificate of compliance, to provide the information necessary to identify and contact vehicle owners who obtained certificates from the station or technician, or may have obtained certificates of compliance in violation of this chapter, for purposes of requiring the retesting of their vehicles.

(5) To be compatible with the eventual transition to a fully computerized smog certification program that will not require the use of printed certificates as evidence of compliance.

(6) To be compatible with bar code scanning of vehicles as provided in Section 44041.

(7) To permit ongoing entry of information from each smog check station into the centralized data base to enlarge and improve the data base on a continuous basis.

(8) To be compatible with the department's recordkeeping and compilation requirements established by Section 44037.

(9) To meet the needs of a remote-sensing program to identify gross polluters, as specified by the department.

(10) To meet any other needs specified by the department to enhance the benefits of the program through the storage of vehicle-specific information, such as that pertaining to voluntary repair and assistance and retirement programs and to the referee station program.

(c) After January 1, 1995, each smog check station shall transmit vehicle data emission test results to the department's centralized data base. Each smog check station shall also transmit vehicle data and emission measurements made before and after repair. The department shall establish, by regulation, the form, manner, and frequency of the data transmittals.

SEC. 6. Section 44060 of the Health and Safety Code is amended to read:

44060. (a) The department shall prescribe the form of the certificate of compliance or noncompliance, repair cost waivers, and economic hardship extensions.

(b) The certificates, repair cost waivers, and economic hardship extensions shall be in the form of an electronic entry filed with the department, the Department of Motor Vehicles, and any other person designated by the department. The department shall ensure that the motor vehicle owner or operator is provided with a written report, signed by the licensed technician who performed the inspection, of any test performed by a smog check station, including a pass or fail indication, and written confirmation of the issuance of the certificate.

(c) (1) The department shall charge a fee to a smog check station, including a test-only station, and a station providing referee functions, for a motor vehicle inspected at that station that meets the requirements of this chapter and is issued a certificate of compliance, a certificate of noncompliance, repair cost waiver, or economic hardship extension.

(2) The fee charged pursuant to paragraph (1) shall be calculated to recover the costs of the department and any other state agency directly involved in the implementation, administration, or enforcement of the motor vehicle inspection and maintenance program, and shall not exceed the amount reasonably necessary to fund the operation of the program, including all responsibilities, requirements, and obligations imposed upon the department or any of those state agencies by this chapter, that are not otherwise recoverable by fees received pursuant to Section 44034.

(3) Except for adjustments to reflect changes in the Consumer Price Index, as published by the United States Bureau of Labor Statistics, the fee for each certificate, waiver, or extension shall not exceed seven dollars ($7).

(4) Fees collected by the department pursuant to this subdivision shall be deposited in the Vehicle Inspection and Repair Fund. It is the intent of the Legislature that a prudent surplus be maintained in the Vehicle Inspection and Repair Fund. If the surplus exceeds the reasonable costs of administration of the programs specified in this chapter and in Chapter 20.3 (commencing with Section 9880) of Division 3 of the Business and Professions Code, the department shall, by regulation, prescribe a lower fee for the certificates, waivers, and extensions.

(d) (1) Motor vehicles exempted under paragraph (4) of subdivision (a) of Section 44011 shall be subject to an annual smog abatement fee of four dollars ($4). Payment of this fee shall be made to the Department of Motor Vehicles at the time of registration of the motor vehicle.

(2) Fees collected pursuant to this subdivision shall be deposited on a daily basis into the Vehicle Inspection and Repair Fund.

(e) The sale or transfer of the certificate, waiver, or extension by a licensed smog check station or test-only station to any other licensed smog check station or to any other person, and the purchase or acquisition of the certificate, waiver, or extension, by any person, other than from the department, the department's designee, or pursuant to a vehicle's inspection or repair conducted pursuant to this chapter, is prohibited.

(f) Following implementation of the electronic entry certificate under subdivision (b), the department may require the modification of the analyzers and other equipment required at smog check stations to prevent the entry of a certificate that has not been issued or validated through prepayment of the fee authorized by subdivision (c).

(g) The fee charged by licensed smog check stations to consumers for a certificate, waiver, or extension shall be the same amount that is charged by the department.

SEC. 7. 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 to be effective for that purpose by the department, 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 motor 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 (2) 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 five hundred dollars ($500) maximum.

(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 (2) 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, resubmitted for testing, and 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 five hundred dollars ($500) maximum. 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.

(c) The department may adopt any other regulations necessary for the effective implementation of this section, as determined by the department.

(d) 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.

(e) 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 (c) of Section 44017.

(f) This section does not apply to vehicles operating under a valid repair cost waiver or economic hardship extension issued pursuant to Section 44015.

SEC. 8. Section 44091 of the Health and Safety Code is amended to read:

44091. (a) The High Polluter Repair or Removal Account is hereby created in the Vehicle Inspection and Repair Fund. All money deposited in the account pursuant to this article and subdivision (d) of Section 6262 of the Revenue and Taxation Code shall be available, upon appropriation by the Legislature, to the department and the state board to establish and implement a program for the repair or replacement of high polluters pursuant to Section 44062.1 and Article 10 (commencing with Section 44100).

(b) The department may accept donations or grants of funds from any person for purposes of the program and shall deposit that money in the account. Donations, grants, or other commitments of money to the account may be dedicated for specific purposes consistent with the uses of the account, including, but not limited to, purchasing higher emitting vehicles for the purpose of achieving the emission reductions required by the M-1 strategy of the 1994 State Implementation Plan (SIP).

(c) The funds which are available in the account in any fiscal year for a particular area that is subject to an inspection and maintenance program shall be distributed to reflect the number of vehicles registered in that area to the total number of vehicles registered in areas that are subject to inspection and maintenance programs. That percentage shall be the percentage of the total funds allocated to the program in that fiscal year which are available for that particular area.

(d) During any fiscal year, the money in the account shall be available, upon appropriation by the Legislature, for the following purposes:

(1) Assistance in the repair of high polluters pursuant to the program established pursuant to Section 44062.1.

(2) Voluntary accelerated retirement of high polluters.

(3) Rulemaking, vehicle testing, and other technical work required to implement and administer the repair assistance program established pursuant to Section 44062.1 and the program described in Article 10 (commencing with Section 44100).

(e) An amount of one million dollars ($1,000,000) annually for the 1997–98 fiscal year and the 1998–99 fiscal year shall be made available from the account for a program to evaluate the emission reduction effectiveness of the M-1 strategy of the 1994 SIP.

(f) All remaining amounts in the account shall be available to the program of repair assistance established pursuant to Section 44062.1.

(g) In no case shall the funding available in any subsequent fiscal year to the department for repairing or removing high-emitting vehicles under the inspection and maintenance program be less than

the amount made available from the Vehicle Inspection and Repair Fund for that purpose in the 1995–96 fiscal year.

SEC. 9. Section 44091.1 is added to the Health and Safety Code, to read:

44091.1. On or after July 1, 1998, in the event that the smog impact fee imposed pursuant to Section 6262 of the Revenue and Taxation Code is ruled unconstitutional by an appellate court or the California Supreme Court, or if the state is in any manner prevented by either of these courts from imposing or collecting the fee, all of the following actions shall immediately take place:

(a) The fee specified in paragraph (1) of subdivision (d) of Section 44060 shall be six dollars ($6). The revenues from that fee shall be allocated as follows:

(1) Except as provided for in paragraph (2), the revenue generated by two dollars ($2) of the fee shall be deposited in the account created by Section 44091, while the revenue generated by the remaining four dollars ($4) shall continue to be deposited in the Vehicle Inspection and Repair Fund.

(2) All revenue generated by the fee imposed at first registration of a motor vehicle exempted under paragraph (4) of subdivision (a) of Section 44011 shall be deposited in the account created by Section 44091.

(b) (1) Except as specified in paragraph (2), this section shall remain in effect only until January 1, 2005, and as of that date shall become inoperative, unless a later enacted statute, that is enacted before June 30, 2004, deletes or extends that date.

(2) With respect to motor vehicles registered in the south coast district, this section shall remain in effect until January 1, 2010, and as of that date is repealed, unless a later enacted statute, that is enacted before June 30, 2009, deletes or extends that date.

SEC. 10. Section 44101 of the Health and Safety Code is amended to read:

44101. Not later than December 31, 1998, the state board shall adopt, by regulation, a statewide program to commence in 1999 that does all of the following:

(a) Provides for the creation, exchange, use, and retirement of light-duty vehicle mobile source emission reduction credits. The credits shall be fungible and exchangeable in the marketplace, and shall reflect the actual emissions of the vehicles that are retired or otherwise disposed of, by measurement, appropriate sampling, or correlations developed from appropriate sampling. The numerical value of credits may be constant over a defined lifetime, or may decline with age measured from the time of origination of the credits. In all cases, the numerical value of the credits shall reflect the useful life expectancies and the projected in-use emissions of the retired vehicles in a manner consistent with the assumptions used in determining the emissions inventory. The credits shall be fully

recognized by the United States Environmental Protection Agency, the state board, and the districts.

(b) Sets out the criteria for retiring or otherwise disposing of high-emitting vehicles purchased for this program.

(c) Authorizes the issuance of those credits to private entities that purchase and properly retire high-emitting vehicles.

(d) Authorizes the resale of those credits to public or private entities to be used to achieve the emission reduction requirements of the 1994 state implementation plan, meet the requirements of the inspection and maintenance program, satisfy compliance with other emission reduction mandates, as determined by the district or the state board, create local growth allowances, or satisfy new or modified source emission offset requirements. Nothing in this article limits a district's authority to apply emission discount factors pursuant to district rules that regulate emissions banks, trades, or offsets.

(e) Provides for the retirement of those credits when used.

(f) Includes accounting procedures to credit emissions reductions achieved through vehicle scrappage to the M-1 strategy of the 1994 SIP and the inspection and maintenance program.

(g) Contains a program plan pursuant to Section 44104.5.

(h) Satisfies the attributes described in subdivision (e) of Section 44100.

SEC. 11. Section 6262 of the Revenue and Taxation Code is amended to read:

6262. (a) In addition to any other fees and taxes required to be paid by the Vehicle Code and this code at the time of the registration of a motor vehicle, as defined in Section 415 of the Vehicle Code, a person making application to register a 1975 or subsequent model year gasoline-powered motor vehicle or a 1980 or subsequent model year diesel-powered motor vehicle which is subject to the requirements of Section 4000.2 of the Vehicle Code shall pay to the Department of Motor Vehicles a motor vehicle smog impact fee of three hundred dollars ($300) for any such motor vehicle which, prior to the date of application, was last registered outside this state, unless the motor vehicle has been certified pursuant to Chapter 2 (commencing with Section 43100) of Part 5 of Division 26 of the Health and Safety Code to meet the California carbon monoxide (CO), hydrocarbon (HC), and oxides of nitrogen ($NO_x$) emission standards for the applicable model year, and the California emission standard for that vehicle in that model year is more stringent than the federal emission standards for CO, HC, or NOx for that vehicle in that model year. This subdivision does not authorize the registration of motor vehicles that are prohibited from being brought into this state pursuant to Article 1.5 (commencing with Section 43150) of Chapter 2 of Part 5 of Division 26 of the Health and Safety Code.

(b) The determination that a vehicle is subject to the fee imposed pursuant to this section shall be made by the Department of Motor Vehicles, or its designee.

(c) (1) For purposes of this chapter, if a motor vehicle does not have affixed a vehicle emission control label from which the Department of Motor Vehicles may determine whether the vehicle is California-certified, the vehicle shall be presumed not to be California-certified unless confirmed to be by the manufacturer.

(2) Any manufacturer of light-duty motor vehicles doing business in California shall provide information, within 30 days from the date of the receipt of a request from the Department of Motor Vehicles, stating whether a vehicle, identified in the request by the vehicle identification number (VIN) assigned by the manufacturer in accordance with federal law, has been certified for sale in California pursuant to Chapter 2 (commencing with Section 43100) of Part 5 of Division 26 of the Health and Safety Code.

(3) For purposes of this subdivision, "vehicle emission control label" means the permanent label that vehicle manufacturers are required to affix to motor vehicles certified by the State Air Resources Board for sale in California in accordance with Chapter 2 (commencing with Section 43100) of Part 5 of Division 26 of the Health and Safety Code and pursuant to Sections 1965 and 1965.5 of Title 13 of the California Code of Regulations.

(d) After deduction of all costs incurred by the department in carrying out this section that have been approved by the Department of Finance, the revenues received pursuant to this section shall be deposited in the General Fund through June 30, 1998. On and after July 1, 1998, those revenues shall be deposited in the High Polluter Repair or Removal Account in the Vehicle Inspection and Repair Fund created pursuant to subdivision (a) of Section 44091 of the Health and Safety Code and shall be available solely for the purpose of funding the low-income repair assistance program established pursuant to Section 44062.1 of the Health and Safety Code and the voluntary accelerated retirement of high-emission motor vehicles as specified in subdivisions (d) and (f) of Section 44091 of the Health and Safety Code.

(e) This section does not apply to any of the following:

(1) A commercial vehicle, as defined in Section 260 of the Vehicle Code, with an unladen weight in excess of 6,000 pounds.

(2) Any vehicle owned by a person who, pursuant to military orders or within three years following the date of discharge from or release from active duty in the armed forces of the United States, enters California for the purpose of establishing or reestablishing residence or accepting gainful employment, if the vehicle was acquired by the owner in a foreign jurisdiction where those military orders required the owner's presence.

(3) Any vehicle that is required to be registered on or after January 1, 1993, that has been subject to the fee imposed by this

section within the prior four years, if the emission control devices and systems were not modified out of state subsequent to the previous payment of that fee.

(f) Notwithstanding any other provision of law, the fee imposed pursuant to subdivision (a) is imposed pursuant to the Sales and Use Tax Law.

SEC. 12. Section 4000.7 of the Vehicle Code is repealed.

SEC. 13. This act shall become operative only if both Assembly Bill 57 and Assembly Bill 1492 of the 1997–98 Regular Session of the Legislature are enacted and take effect on or before January 1, 1998.

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## CHAPTER 803

An act to amend Sections 44001, 44005, 44011, 44014, 44014.5, 44015, 44017, 44036, and 44040 of, to add Section 44017.1 to, and to repeal Section 44015.3 of, the Health and Safety Code, and to repeal Section 4000.7 of the Vehicle Code, relating to air pollution.

[Approved by Governor October 8, 1997. Filed with Secretary of State October 9, 1997.]

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

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

(a) Since the adoption of the federal Clean Air Act in 1972, California has made great strides in improving air quality.

(b) To comply with federal air quality standards by the year 2010, and to meet every Californian's desire for cleaner air, further reductions in air pollution are necessary.

(c) California's stationary source industries and businesses are already among the cleanest in the world, and tighter regulations will achieve few additional pollution reductions.

(d) Mobile sources generate roughly one-half of all the remaining air pollution in this state, and the worst polluting 10 to 15 percent of automobiles generate one-half of all the pollution caused by mobile sources.

(e) Motor vehicle inspection and maintenance programs can significantly reduce vehicle emissions and thereby contribute to the attainment of clean air standards.

(f) Any motor vehicle inspection and maintenance program should provide the maximum possible pollution reduction at a minimum cost and inconvenience to the people of the state.

(g) The Legislature recognizes that where new government regulations impose significant costs on businesses or individuals, the government has a responsibility to ensure that the burden of compliance does not fall unfairly on any one group or class of people.

SEC. 2. It is the intent of the Legislature that the Department of Consumer Affairs and the State Air Resources Board adhere to the following principles in implementing the motor vehicle inspection and maintenance program established by Chapter 5 (commencing with Section 44000) of Part 5 of Division 26 of the Health and Safety Code:

(a) To promote consumer convenience and acceptance, a program phase-in of the enhanced smog check program requirements in those areas newly subject to those requirements should be developed. Any program phase-in should be consistent with the availability of test, repair, referee, and other facilities necessary to provide reliable and convenient service to vehicle owners subject to the program.

(b) Consistent with Section 44070.5, the Department of Consumer Affairs shall develop and implement a thorough public awareness and education program that provides motor vehicle owners with information about enhanced smog check program features, such as the causes of smog check failures, vehicle retesting, repair, referee station options, the importance of proper maintenance and effective repairs, and any economic relief programs. Such a program is essential to the success of the inspection and maintenance program.

(c) It is the intent of the Legislature that the enhanced smog check program should be reviewed and modified, as appropriate, based on improvements in the program, technological advances in testing and diagnostic equipment, including remote sensing devices, and vehicle emission control technology when appropriate. It is further the intent of the Legislature that a new program should replace that program not later than 2005.

SEC. 3. Section 44001 of the Health and Safety Code is amended to read:

44001. (a) The Legislature hereby finds and declares that California has been required, by the amendments enacted to the Clean Air Act in 1990, and by regulations adopted by the Environmental Protection Agency, to enhance California's existing motor vehicle inspection and maintenance program to meet new, more stringent emission reduction targets. Therefore, the Legislature declares that the 1994 amendments to this chapter are adopted to implement further improvements in the existing inspection and maintenance program so that California will meet or exceed the new emission reduction targets.

(b) The Legislature further finds and declares all of the following:

(1) California is recognized as a leader in establishing performance standards for its air quality programs and those standards have been adopted by many other states and countries.

(2) Studies show that a minority of motor vehicles produce a disproportionate amount of the pollution caused by vehicle emissions. Those vehicles are referred to as gross polluters.

(3) The concept of periodic testing alone does not act as a sufficient deterrent to tampering, or as a sufficient incentive for vigilant vehicle maintenance by a significant percentage of motorists. Gross polluters continue to be driven on the roadways of California.

(4) (A) New technology, known as remote sensing, offers great promise as a cost-effective means to detect vehicles emitting excess emissions as the vehicles are being driven. This type of detection offers many valuable applications, especially its use between scheduled tests, as an inexpensive, random, and pervasive means of identifying vehicles which are gross polluters and targeting those vehicles for repair or other methods of emission reduction.

(B) Another new technology, the development of emissions profiles for motor vehicles, allows the motor vehicle inspection program to accurately identify both high- and low-emitting vehicles. This technology may allow the full or partial exception of certain vehicles from biennial certification requirements to the extent determined by the department.

(5) California continues to seek strict adherence to federal and state performance standards and to results-based evaluations that meet the state's unique circumstances, and which consist of all of the following:

(A) Acceptance of the shared obligation and personal responsibility required to successfully inspect and maintain millions of motor vehicles. Specifically, that obligation begins with this chapter, and extends through those regulators charged with its implementation and enforcement. Through the enactment of the 1994 amendments to this chapter, the Legislature hereby recognizes and seeks to encourage, through a number of innovative and significant steps, the critical role that each California motorist must play in maintaining his or her vehicle's emission control systems in proper working order, in such a way as to continuously meet mandated emission control standards and ensure for California the clean air essential to the health of its citizens, its communities, and its economy.

(B) A focus on the detection, diagnosis, and repair of broken, tampered, or malfunctioning vehicle emission control systems.

(C) Flexibility to incorporate and implement future new scientific findings and technological advances.

(D) Consideration of convenience and costs to those who are required to participate, including motorists, smog check stations, and technicians.

(E) An enforcement program which is vigorous and effective and includes monitoring of the performance of the smog check test or repair stations and technicians, as well as the monitoring of vehicle emissions as vehicles are being driven.

(c) The Legislature further finds and declares that California is, as of the effective date of this section, implementing a number of

motor vehicle emission reduction strategies far beyond the effort undertaken by any other state, including all of the following:

(1) California certification standards exceed those of the other 49 states, increasing the cost of a new car to a California consumer by one hundred fifty dollars ($150) or more.

(2) State board regulations mandate increasing availability for sale of low-emission, ultra-low emission, and zero-emission vehicles, including, by 2003, 10 percent zero-emission vehicles.

(3) Effective in 1996, state board regulations mandate the reformulation of gasoline for reduced emissions, at an estimated increased production cost of 5 to 15 cents per gallon due to refinery modifications and higher production costs.

(4) Cleaner diesel fuel regulations, more stringent than federal standards, took effect in California in October 1993, increasing diesel fuel costs by 4 to 6 cents per gallon.

(5) California law provides for vehicle registration surcharges of up to four dollars ($4) per vehicle in nonattainment areas for air quality-related projects.

(6) California law taxes cleaner fuels at one-half the rate of gasoline and diesel fuel.

(7) California law provides tax credits for the purchase of low-emission vehicles.

(8) California requires smog checks and repairs whenever a vehicle changes ownership, some 3 million vehicles annually, in addition to the regular biennial tests.

(9) Low-value vehicles are discouraged from entering California due to the imposition of a three hundred dollar ($300) smog impact fee on vehicles that are not manufactured to California certification standards.

(10) California imposes sales taxes on motor vehicle fuels and dedicates most of those revenues to mass transit. This increases the cost of fuels by seven cents ($.07) per gallon.

(11) Transportation sales taxes in most urban counties also generate substantial funding for transit and other congestion-reduction measures, costing the average urban California resident fifty dollars ($50) to one hundred dollars ($100) annually, which would be the equivalent of another 8 to 16 cents per gallon of fuel.

SEC. 4. Section 44005 of the Health and Safety Code is amended to read:

44005. (a) The Department of Motor Vehicles shall cooperate with the department in implementing any changes to enhance the program to achieve greater efficiency, cost effectiveness, and convenience, or to reduce excess emissions in accordance with this chapter.

(b) The program shall provide for inspection of specified motor vehicles, as determined by the department, upon initial registration, biennially upon renewal of registration, upon transfer of ownership,

upon the issuance of a notice of noncompliance to a gross polluter pursuant to Section 44081, and as otherwise provided in this chapter.

SEC. 5. Section 44011 of the Health and Safety Code is amended to read:

44011. (a) All motor vehicles powered by internal combustion engines that are registered within an area designated for program coverage shall be required biennially to obtain a certificate of compliance or noncompliance, except for all of the following:

(1) Every motorcycle, and every diesel-powered vehicle, until the department, pursuant to Section 44012, implements test procedures applicable to motorcycles or to diesel-powered vehicles, or both.

(2) Any motor vehicle that has been issued a certificate of compliance or noncompliance or a repair cost waiver upon a change of ownership or initial registration in this state during the preceding six months.

(3) Any motor vehicle manufactured prior to the 1966 model-year.

(4) (A) Any motor vehicle four or less model-years old.

(B) Any motor vehicle excepted by this paragraph shall be subject to testing and to certification requirements as determined by the department, if any of the following apply:

(i) The department determines through remote sensing activities or other means that there is a substantial probability that the vehicle has a tampered emission control system or would fail for other cause a smog check test as specified in Section 44012.

(ii) The vehicle was previously registered outside this state and is undergoing initial registration in this state.

(iii) The vehicle is being registered as a specially constructed vehicle.

(iv) The vehicle has been selected for testing pursuant to Section 44014.7 or any other provision of this chapter authorizing out-of-cycle testing.

(5) Any motor vehicle or class of motor vehicles exempted pursuant to subdivision (b) of Section 44024.5.

(6) Any motor vehicle that the department determines would present prohibitive inspection or repair problems.

(7) Any vehicle registered to the owner of a fleet licensed pursuant to Section 44020 if the vehicle is garaged exclusively outside the area included in program coverage, and is not primarily operated inside the area included in program coverage.

(b) Vehicles designated for program coverage in enhanced areas shall be required to obtain inspections from appropriate smog check stations operating in enhanced areas.

SEC. 5.5. Section 44011 of the Health and Safety Code is amended to read:

44011. (a) All motor vehicles powered by internal combustion engines that are registered within an area designated for program coverage shall be required biennially to obtain a certificate of compliance or noncompliance, except for all of the following:

(1) Every motorcycle, and every diesel-powered vehicle, until the department, pursuant to Section 44012, implements test procedures applicable to motorcycles or to diesel-powered vehicles, or both.

(2) Any motor vehicle that has been issued a certificate of compliance or noncompliance or a repair cost waiver upon a change of ownership or initial registration in this state during the preceding six months.

(3) (A) Prior to January 1, 2003, any motor vehicle manufactured prior to the 1974 model-year.

(B) Beginning January 1, 2003, any motor vehicle that is 30 or more model-years old.

(4) (A) Any motor vehicle four or less model-years old.

(B) Any motor vehicle excepted by this paragraph shall be subject to testing and to certification requirements as determined by the department, if any of the following apply:

(i) The department determines through remote sensing activities or other means that there is a substantial probability that the vehicle has a tampered emission control system or would fail for other cause a smog check test as specified in Section 44012.

(ii) The vehicle was previously registered outside this state and is undergoing initial registration in this state.

(iii) The vehicle is being registered as a specially constructed vehicle.

(iv) The vehicle has been selected for testing pursuant to Section 44014.7 or any other provision of this chapter authorizing out-of-cycle testing.

(5) Any motor vehicle or class of motor vehicles exempted pursuant to subdivision (b) of Section 44024.5.

(6) Any motor vehicle that the department determines would present prohibitive inspection or repair problems.

(7) Any vehicle registered to the owner of a fleet licensed pursuant to Section 44020 if the vehicle is garaged exclusively outside the area included in program coverage, and is not primarily operated inside the area included in program coverage.

(b) Vehicles designated for program coverage in enhanced areas shall be required to obtain inspections from appropriate smog check stations operating in enhanced areas.

SEC. 6. Section 44014 of the Health and Safety Code is amended to read:

44014. (a) Except as otherwise provided in this chapter, the testing and repair portion of the program shall be conducted by smog check stations licensed by the department, and by smog check technicians who have qualified pursuant to this chapter.

(b) (1) A smog check station may be licensed by the department as a smog check test-only station and, when so licensed, need not comply with the requirement for onsite availability of current service and adjustment procedures specified in paragraph (3) of subdivision (b) of Section 44030. A smog check technician employed by a smog

check test-only station shall be qualified in accordance with this section.

(2) The department may authorize the placement of referees in qualified test-only stations to provide referee services as a matter of convenience to the public. The department shall supply those referees directly or through a contractor. A referee shall have no ownership interest in the facility at which the referee is located. Referees shall be solely responsible for issuing repair cost waivers, certificates of compliance or noncompliance, and hardship extensions, in accordance with regulations adopted by the department.

The department may adopt regulations to establish qualification standards and any special administrative, operational, and licensure standards that the department determines to be necessary for test-only stations that perform referee services.

(c) A smog check station may also be licensed as a repair-only station, and if so licensed, may perform repairs to reduce excessive emissions on vehicles which have failed the smog check test. Repair procedures and equipment requirements shall be established by the department. Technicians employed by a smog check repair-only station shall be qualified in accordance with this section.

(d) Smog check technicians are qualified to test and repair only those classes and categories of vehicles for which they have passed a qualification test administered by the department. The department shall provide for smog check technicians to be qualified for different categories of motor vehicle inspection based on vehicle classification and model-year.

(e) The consumer protection-oriented quality assurance portion of the program may be conducted by one or more private entities pursuant to contracts with the department.

SEC. 7. Section 44014.5 of the Health and Safety Code is amended to read:

44014.5. (a) The enhanced program shall provide for the testing and retesting of vehicles in accordance with Sections 44010.5 and 44014.2 and this section.

(b) The repair of vehicles at test-only facilities shall be prohibited, except that the minor repair of components damaged by station personnel during inspection at the station, any minor repair that is necessary for the safe operation of a vehicle while at a station, or other minor repairs, such as the reconnection of hoses or vacuum lines, may be undertaken at no charge to the vehicle owner or operator if authorized in advance in writing by the department.

(c) The department shall provide for the distribution to consumers by test-only facilities of a list, compiled by region, of smog check stations licensed to make repairs of vehicular emission control systems. A test-only facility shall not refer a vehicle owner to any particular provider of vehicle repair services.

(d) The department shall establish standards for training, equipment, performance, or data collection for test-only facilities.

(e) The department shall prohibit test-only facilities from engaging in other business activities that represent a conflict of interest, as determined by the department.

(f) The test-only facility may charge a fee, established by the department, sufficient to cover the facility's cost to perform the tests or services, including, but not limited to, referee services and the issuance of waivers and hardship extensions required by this chapter. In addition, the station shall charge and collect the certificate fee established pursuant to Section 44060. This subdivision shall apply only to facilities contracted for pursuant to subdivision (e) of Section 44010.5.

(g) The department shall ensure that there is a sufficient number of test-only facilities to provide convenient testing for the following vehicles:

(1) All vehicles identified and confirmed as gross polluters pursuant to Section 44081 and Section 27156 of the Vehicle Code.

(2) (A) Vehicles initially identified as gross polluters by a smog check station licensed as a test-and-repair station and certified pursuant to Section 44014.2 may be issued a certificate of compliance by a test-only facility or by the licensed smog check station certified pursuant to Section 44014.2 at which they were initially identified as a gross polluter.

(B) For purposes of this section, the department may conduct a pilot program to allow vehicles initially identified as gross polluters to be repaired and issued a certificate of compliance by a facility licensed and certified pursuant to Section 44014.2. For the purposes of this pilot program, the department may adopt regulations imposing additional station requirements.

(3) All vehicles designated by the department pursuant to Sections 44014.7 and 44020.

(4) Vehicles issued an economic hardship extension in the previous biennial inspection of the vehicle.

(h) The department shall provide a sufficient number of test-only facilities authorized to perform referee functions to provide convenient testing for those vehicles that are required to report to, and receive a certificate of compliance from, a test-only facility by this chapter, including all of the following:

(1) All vehicles seeking to utilize state-operated financial assistance or inclusion in authorized scrap programs.

(2) All vehicles unable to obtain a certificate of compliance from a licensed smog check station pursuant to subdivision (c) of Section 44015.

(3) Any other vehicles that may be designated by the department.

(i) Gross polluters shall be referred to a 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 (2) of subdivision (g), for a postrepair inspection and retest pursuant to subdivision (g). Simply passing the emissions test shall not be a sufficient condition for receiving a certificate of compliance. A certificate of compliance shall only be issued to a vehicle that does not have any defects with its emission control system or any defects that could lead to damage of its emission control system, as provided in regulations adopted by the department.

SEC. 8. Section 44015 of the Health and Safety Code is amended to read:

44015. (a) A licensed smog check station shall not issue a certificate of compliance, except as authorized by this chapter, to any vehicle that meets the following criteria:

(1) A vehicle that has been tampered with.

(2) A vehicle that, prior to repairs, has been initially identified by the smog check station as a gross polluter. Certification of a gross polluting vehicle shall be conducted by a designated test-only facility, or a test-and-repair station that is both licensed and certified pursuant to Section 44014 and 44014.2 and is participating in the pilot program pursuant to subparagraph (B) of paragraph (2) of subdivision (g) of Section 44014.5.

(3) A vehicle described in subdivision (c).

(b) If a vehicle meets the requirements of Section 44012, a smog check station licensed to issue certificates shall issue a certificate of compliance or a certificate of noncompliance.

(c) (1) A repair cost waiver shall be issued, upon request of the vehicle owner, by a gold shield station or a test-only facility authorized to perform referee functions for a vehicle that has been properly tested but does not meet the applicable emission standards when it is determined that no adjustment or repair can be made that will reduce emissions from the inspected motor vehicle without exceeding the applicable repair cost limit established under Section 44017 and that every defect specified by paragraph (2) of subdivision (a) of Section 43204, and by paragraphs (2) and (3) of subdivision (a) of Section 43205, has been corrected. A repair cost waiver issued pursuant to this paragraph shall be accepted in lieu of a certificate of compliance for the purposes of compliance with Section 4000.3 of the Vehicle Code.

(2) A low-income repair cost waiver shall be issued, upon request of a qualified low-income motor vehicle owner, by a gold shield facility, or a test-only facility authorized to perform referee functions, for a motor vehicle that has been properly tested but does not meet the applicable emission standards when it is determined that no adjustment or repair can be made that will reduce emissions from the inspected motor vehicle without exceeding the applicable repair cost limit, as established pursuant to Section 44017.1, and that every defect specified in paragraph (2) of subdivision (a) of Section 43204, and in

paragraphs (2) and (3) of subdivision (a) of Section 43205, has been corrected.

(d) No repair cost waiver shall be issued under any of the following circumstances:

(1) If a motor vehicle was issued a repair cost waiver in the previous biennial inspection of that vehicle. A repair cost waiver may be issued to a motor vehicle owner only once for a particular motor vehicle belonging to that owner. However, a repair cost waiver may be issued for a motor vehicle that participated in a previous waiver or extension program prior to January 1, 1998, as determined by the department. For waivers issued in the waiver program operative on or after January 1, 1998, a waiver may be issued for a motor vehicle only once per owner. No repair cost waiver shall exceed two years' duration.

(2) Upon initial registration of all of the following: a direct import motor vehicle, a motor vehicle previously registered outside this state, a dismantled motor vehicle pursuant to Section 11519 of the Vehicle Code, a motor vehicle that has had an engine change, an alternate fuel vehicle, and a specially constructed vehicle.

(3) Unless all appropriate emissions-related partial repairs at least equal to the amount of the applicable repair cost limit in Section 44017 or Section 44017.1, if applicable, have been performed.

(e) A certificate of compliance or noncompliance shall be valid for 90 days.

(f) A test may be made at any time within 90 days prior to the date otherwise required.

SEC. 9. Section 44015.3 of the Health and Safety Code is repealed.

SEC. 10. Section 44017 of the Health and Safety Code is amended to read:

44017. (a) Except as otherwise provided in this section or Section 44017.1, the cost limit for repairs under the program, including parts and labor, shall be a minimum of four hundred fifty dollars ($450) in all areas where the program operates.

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

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

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

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

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

(5) For motor vehicles of 1990 to 1995, inclusive model years, three hundred dollars ($300).

(6) For motor vehicles of 1996 and later model years, four hundred fifty dollars ($450).

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

(d) If insufficient funds are available to adequately fund the low-income repair assistance program during any year, the repair cost limits shall revert to those specified in subdivision (b).

(e) No repair cost limit shall be imposed in those cases where emissions control equipment is missing or is partially or totally inoperative as a result of being tampered with.

SEC. 11. Section 44017.1 is added to the Health and Safety Code, to read:

44017.1. Notwithstanding subdivision (a) of Section 44017, for motor vehicle owners qualified as low income under Section 44062.1, the repair cost limit, including parts and labor, shall be a minimum of two hundred dollars ($200) in all areas where the program operates. However, the department may increase that minimum, to not more than two hundred fifty dollars ($250), if the department determines that the program is not cost-effective.

SEC. 12. Section 44036 of the Health and Safety Code is amended to read:

44036. (a) The consumer protection-oriented quality assurance portion of the motor vehicle inspection program shall ensure uniform and consistent tests and repairs by all qualified smog check technicians and licensed smog check stations throughout the state, and shall include a number of stations providing referee functions available to consumers.

(b) All licensed smog check stations shall utilize original equipment and replacement parts that are certified by the department. The department shall charge a fee for certification testing of the equipment or the replacement parts. The fee for certification testing of equipment shall be fixed by the department based upon its actual costs of certification testing, shall be calculated from the time that the equipment is submitted for certification testing until the time that the certification testing is complete, and shall not exceed ten thousand dollars ($10,000). The fee for certification testing of replacement parts shall be determined by the department based upon its actual costs of certification testing, shall be calculated from the time that the replacement part is submitted for certification testing until the time that the certification testing is complete, and shall not exceed two thousand five hundred dollars ($2,500). The department shall adopt, and may revise, standards for

certification and decertification of the equipment, which may include a device for testing of emissions of oxides of nitrogen. As expeditiously as possible, the department shall adopt equipment standards that include a test analyzer system containing all of the following:

(1) A microprocessor to control test sequencing, selection of proper test standards, the automatic pass or fail decision, and the format for the test report and the recorded data file. The microprocessor shall be capable of using a standardized programming language specified by the department.

(2) An exhaust gas analysis portion with an analyzer for hydrocarbons, carbon monoxide, and carbon dioxide that is designed to accommodate an optional oxides of nitrogen analyzer. An oxides of nitrogen analyzer shall be required in the enhanced program areas.

(3) Equipment necessary to perform visual and functional tests of emission control devices required by the department.

(4) A device to accept and record motor vehicle identification information, including a device capable of reading bar code information pursuant to regulations of the state board. The device shall have the ability to identify, with the cooperation of the Department of Motor Vehicles, smog inspections performed on vehicles sold by used car dealers.

(5) A device to provide a printed record of the test process and diagnostic information for the motorist.

(6) A mass storage device capable of storing not less than the minimum amount of program software and data specified by the department.

(7) A device to provide for the periodic modification of all program and data files contained on the mass storage device, using a standardized form of removable media conforming to specifications of the department.

(8) A device that provides for the storage of test records on a standardized form of removable media conforming to specifications of the department.

(9) One or more communications ports conforming to the specifications established by the department as necessary to provide real time communication, or communication that is consistent with maintaining a superior quality assurance program and efficient information transfer, between the test equipment and the centralized computer data base through the computer network maintained by the department pursuant to Section 44037.1.

(10) An interface capable of monitoring equipment used with loaded mode testing, idle testing, on board diagnostic testing, or other tests prescribed by the department.

(11) Any other features that the department determines are necessary to increase the effectiveness of the program, including, but not limited to, a loaded mode dynamometer for purposes of oxides

of nitrogen detection, and other equipment necessary to detect nonexhaust-related volatile organic compound emissions, such as found in fuel system evaporative emissions and crankcase ventilation emissions.

(c) The department shall require all smog check stations to use equipment meeting the requirements of subdivision (b) as soon as possible, but not later than January 1, 1996. However, the department may defer the requirement for any equipment, external to the chassis of the test analyzer system, needed to read bar code information, until a substantial portion of the vehicles subject to this chapter are equipped with bar code labels. Prior to the imposition of a requirement for equipment meeting the requirements of subdivision (b), every smog check station shall use equipment meeting the specifications of the department in effect on January 1, 1988.

(d) The quality assurance portion shall provide for inspections of licensed smog check stations, data collection and forwarding, equipment accuracy checks, operation of referee stations, and other necessary functions. If the services are contracted for pursuant to subdivision (e) of Section 44014, the department shall prepare detailed specifications and solicit bids from private entities for the implementation of the quality assurance functions.

(e) The department may revise the specifications for equipment annually if the cost thereof is less than 20 percent of the total system cost. A more comprehensive revision to the specifications may be required not more often than every five years.

(f) (1) Equipment manufacturers shall furnish to the department, and shall install, software updates as specified by the department. The department shall allow equipment manufacturers six months, from the date the department issues its proposed specifications for periodic software updates, to obtain department approval that the updates meet the proposed specifications and to install the updates in all equipment subject to the updates. During the first 30 days of the six-month period, the manufacturers shall be permitted to review and to comment upon the proposed specifications. However, notwithstanding any other provision of this section, the department may order manufacturers to install software changes in a shorter period of time upon a finding by the department that a previously installed update does not meet current specifications. A manufacturer's failure to furnish or install software updates as so specified is cause for the department to decertify the manufacturer's test analyzer system or to issue a citation to the manufacturer. The citation shall specify the nature of the violation and may specify a civil penalty not to exceed one thousand dollars ($1,000) for each day the manufacturer fails to furnish or install the specified software updates by the specified period. In assessing a civil penalty pursuant to this subdivision, the department shall give due consideration, in determining the appropriateness of the amount of

the civil penalty, to factors such as the gravity of the violation, the good faith of the manufacturer, and the history of previous violations.

(2) The citations shall be served pursuant to subdivision (c) of Section 11505 of the Government Code. The manufacturer may request a hearing in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. A request for a hearing shall be submitted in writing within 30 days of service of the citation, and shall be delivered to the office of the department in Sacramento. Hearings and related procedures under this subdivision shall be conducted in the same manner as proceedings for adjudication of an accusation under that Chapter 5, except as otherwise specified in this article.

(3) If within 30 days from the date of service of the citation, the manufacturer fails to request a hearing, the citation shall be deemed the final order of the department.

(4) Any failure to comply with the final order of the department for payment of a civil penalty, or to pay the amount specified in any settlement executed by the licensee and the Director of Consumer Affairs, is cause for decertification of the manufacturer's test analyzer system.

SEC. 13. Section 44040 of the Health and Safety Code is amended to read:

44040. The department may require certificates of compliance, certificates of noncompliance, and repair cost waivers to contain a unique number encoded in bar code. These certificates may be sold to licensed smog check stations by the department, printed by test analyzer systems, or transmitted by electronic means. The department, with the cooperation of the Department of Motor Vehicles, shall periodically check certificates to determine their validity.

SEC. 14. Section 4000.7 of the Vehicle Code is repealed.

SEC. 15. (a) It is the intent of the Legislature to replace the existing vehicle inspection and maintenance program in Chapter 5 (commencing with Section 44000) of Part 5 of Division 26 of the Health and Safety Code, on or before January 1, 2005.

(b) On or before January 1, 2003, the State Air Resources Board and the Bureau of Automotive Repair shall design a new proposed program to replace the existing vehicle inspection and maintenance program and submit to the Legislature a report on that new program.

(c) Not later than July 1, 2003, the Inspection and Maintenance Review Committee shall review the program proposed pursuant to subdivision (b) and shall submit to the Legislature a plan proposed by the committee.

SEC. 16. 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. 17. Section 5.5 of this bill incorporates amendments to Section 44011 of the Health and Safety Code proposed by both this bill and SB 42. 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 44011 of the Health and Safety Code, and (3) this bill is enacted after SB 42, in which case Section 5 of this bill shall not become operative.

SEC. 18. This act shall become operative only if both Assembly 57 and Assembly Bill 208 of the 1997–98 Regular Session of the Legislature are enacted and take effect on or before January 1, 1998.

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## CHAPTER 804

An act to amend Sections 44015, 44017, and 44056 of, to add Sections 44001.3 and 44017.1 to, to repeal Section 44015.3 of, and to repeal and add Section 44062.1 of, the Health and Safety Code, relating to air pollution.

[Approved by Governor October 8, 1997. Filed with Secretary of State October 9, 1997.]

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

SECTION 1. Section 44001.3 is added to the Health and Safety Code, to read:

44001.3. The Legislature hereby finds and declares as follows:

(a) Under the state's previous smog check program, a motor vehicle owner could obtain unlimited repair cost waivers and, therefore, avoid repair of a polluting vehicle.

(b) As a result, many vehicles were reregistered year after year and allowed to continue to pollute the air.

(c) Repairing high-polluting and gross polluting vehicles (which pollute 2 to 25 times more than the average vehicle that passes a smog check) could significantly improve California air quality and allow the state to meet federal clean air goals.

(d) The existing repair cost limit for smog repairs is a minimum of four hundred fifty dollars ($450) in all areas where the enhanced smog check program operates; fifty dollars ($50) to three hundred dollars ($300) based on the model year of the vehicle where the

enhanced program is not fully implemented; and no cost limit for the repair of gross polluting vehicles.

(e) Without state financial assistance to repair a vehicle, a low-income vehicle owner is forced to either scrap the vehicle or drive an unregistered vehicle.

SEC. 2. Section 44015 of the Health and Safety Code is amended to read:

44015. (a) A licensed smog check station shall not issue a certificate of compliance, except as authorized by this chapter, to any vehicle that meets the following criteria:

(1) A vehicle that has been tampered with.

(2) A vehicle that, prior to repairs, has been initially identified by the smog check station as a gross polluter. Certification of a gross polluting vehicle shall be conducted by a designated test-only facility, or a test-and-repair station that is both licensed and certified pursuant to Section 44014 and 44014.2 and is participating in the pilot program pursuant to subparagraph (B) of paragraph (2) of subdivision (g) of Section 44014.5.

(3) A vehicle described in subdivision (c).

(b) If a vehicle meets the requirements of Section 44012, a smog check station licensed to issue certificates shall issue a certificate of compliance or a certificate of noncompliance.

(c) (1) A repair cost waiver shall be issued, upon request of the vehicle owner, by an entity authorized to perform referee functions for a vehicle that has been properly tested but does not meet the applicable emission standards when it is determined that no adjustment or repair can be made that will reduce emissions from the inspected motor vehicle without exceeding the applicable repair cost limit established under Section 44017 and that every defect specified by paragraph (2) of subdivision (a) of Section 43204, and by paragraphs (2) and (3) of subdivision (a) of Section 43205, has been corrected. A repair cost waiver issued pursuant to this paragraph shall be accepted in lieu of a certificate of compliance for the purposes of compliance with Section 4000.3 of the Vehicle Code. No repair cost waiver shall exceed two years' duration. No repair cost waiver shall be issued until the vehicle owner has expended an amount equal to the applicable repair cost limit specified in Section 44017.

(2) An economic hardship extension shall be issued, upon request of a qualified low-income motor vehicle owner, by an entity authorized to perform referee functions, for a motor vehicle that has been properly tested but does not meet the applicable emission standards when it is determined that no adjustment or repair can be made that will reduce emissions from the inspected motor vehicle without exceeding the applicable repair cost limit, as established pursuant to Section 44017.1, that every defect specified in paragraph (2) of subdivision (a) of Section 43204, and in paragraphs (2) and (3) of subdivision (a) of Section 43205, has been corrected, that the

low-income vehicle owner would suffer an economic hardship if the extension is not issued, and that all appropriate emissions-related repairs up to the amount of the applicable repair cost limit in Section 44017.1 have been performed.

(d) No repair cost waiver or economic hardship extension shall be issued under any of the following circumstances:

(1) If a motor vehicle was issued a repair cost waiver or economic hardship extension in the previous biennial inspection of that vehicle. A repair cost waiver or economic hardship extension may be issued to a motor vehicle owner only once for a particular motor vehicle belonging to that owner. However, a repair cost waiver or economic hardship extension may be issued for a motor vehicle that participated in a previous waiver or extension program prior to January 1, 1998, as determined by the department. For waivers or extensions issued in the program operative on or after January 1, 1998, a waiver or extension may be issued for a motor vehicle only once per owner.

(2) Upon initial registration of all of the following: a direct import motor vehicle, a motor vehicle previously registered outside this state, a dismantled motor vehicle pursuant to Section 11519 of the Vehicle Code, a motor vehicle that has had an engine change, an alternate fuel vehicle, and a specially constructed vehicle.

(e) A certificate of compliance or noncompliance shall be valid for 90 days.

(f) A test may be made at any time within 90 days prior to the date otherwise required.

SEC. 3. Section 44015.3 of the Health and Safety Code is repealed.

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

44017. (a) Except as otherwise provided in this section or Section 44017.1, a motor vehicle owner shall qualify for a repair cost waiver only after expenditure of not less than four hundred fifty dollars ($450) for repairs, including parts and labor.

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

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

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

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

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

(5) For motor vehicles of 1990 to 1995, inclusive, model years, three hundred dollars ($300).

(6) For motor vehicles of 1996 and later model years, four hundred fifty dollars ($450).

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

(d) No repair cost limit shall be imposed in those cases where emissions control equipment is missing or is partially or totally inoperative as a result of being tampered with.

SEC. 5. Section 44017.1 is added to the Health and Safety Code, to read:

44017.1. (a) For purposes of this section, "low-income motor vehicle owner" means a person whose income does not exceed 175 percent of the federal poverty level.

(b) Notwithstanding subdivision (a) of Section 44017, for low-income motor vehicle owners qualified under Section 44062.1, the repair cost limit, including parts and labor, shall be two hundred fifty dollars ($250) in all areas where the program operates. However, the department may decrease that amount, to not more than two hundred dollars ($200), if the department determines that participation rates are unsatisfactory.

(c) Until such time as a low-income repair assistance program becomes effective pursuant to Section 44062.1, an economic hardship extension shall be issued upon request to a qualified low-income motor vehicle owner whose motor vehicle has been tested but does not meet applicable emissions standards and the necessary repairs exceed the repair cost limit specified in subdivision (b).

SEC. 6. Section 44056 of the Health and Safety Code is amended to read:

44056. (a) Except as otherwise provided in Sections 44051 and 44051.5, any person who violates this chapter, or any order, rule, or regulation of the department adopted pursuant to this chapter, is liable for a civil penalty of not less than one hundred fifty dollars ($150) and not more than two thousand five hundred dollars ($2,500) for each day in which each violation occurs. Any action to recover civil penalties shall be brought by the Attorney General in the name of the state on behalf of the department, or may be brought by any district attorney, city attorney, or attorney for a district.

(b) The penalties specified in subdivision (a) do not apply to an owner or operator of a motor vehicle, except an owner or operator who does any of the following:

(1) Obtains, or who attempts to obtain, a certificate of compliance, noncompliance or a repair cost waiver, or an economic hardship extension without complying with Section 44015.

(2) Obtains, or attempts to obtain, a certificate of compliance, a repair cost waiver, or economic hardship extension by means of fraud, including, but not limited to, offering or giving any form of financial or other inducement to any person for the purpose of obtaining a certificate of compliance for a vehicle that has not been tested or has been tested improperly.

(3) Registers a motor vehicle at an address other than the owner's or operator's residence address for the purpose of avoiding the requirements of this chapter.

(4) Obtains, or attempts to obtain, a certificate of compliance by other means when required to report to the test-only facility after being identified as a tampered vehicle or gross polluter pursuant to Section 44015 or 44081.

(c) Any person who obtains or attempts to obtain a repair cost waiver, or economic hardship extension pursuant to this chapter by falsifying information shall be subject to a civil penalty of not less than one hundred fifty dollars ($150) and not more than one thousand dollars ($1,000), and shall be made ineligible for receiving any repair assistance of any kind pursuant to this chapter.

SEC. 7. Section 44062.1 of the Health and Safety Code, as amended by Section 13 of Chapter 982 of the Statutes of 1995, is repealed.

SEC. 8. Section 44062.1 of the Health and Safety Code, as amended by Section 14 of Chapter 982 of the Statutes of 1995, is repealed.

SEC. 9. Section 44062.1 of the Health and Safety Code, as amended by Section 15 of Chapter 982 of the Statutes of 1995, is repealed.

SEC. 10. Section 44062.1 is added to the Health and Safety Code, to read:

44062.1. (a) The department shall offer a low-income repair assistance program beginning March 1, 1998, through entities authorized to perform referee functions.

(b) (1) The repair assistance program shall be available to eligible individuals based on a maximum income level of 175 percent of the federal poverty level, as published quarterly in the Federal Register by the Department of Health and Human Services.

(2) The department shall offer low-income repair cost assistance, funded by the High Polluter Repair or Removal Account in the Vehicle Inspection and Repair Fund created pursuant to subdivision (a) of Section 44091 and revenues generated by the smog impact fee pursuant to Section 6262 of the Revenue and Taxation Code, to individuals who obtain an economic hardship extension, based on the cost-effectiveness and air quality benefit of the needed repair. Repair assistance may include retesting costs.

(3) An applicant for low-income repair assistance shall file an application on a form prescribed by the department and shall certify

under penalty of perjury that the applicant meets the applicable eligibility standards.

(4) Verification of low-income eligibility shall be based on at least one form of documentation, as determined by the department, including, but not limited to, (A) an income tax return, (B) an employment warrant, or (C) a form of public assistance verification.

(c) The low-income repair assistance program shall be funded by the High Polluter Repair or Removal Account until June 30, 1998. Thereafter, a minimum of twenty million dollars ($20,000,000) shall be made available annually for the program through funding provided by revenues generated by the smog impact fee pursuant to Section 6262 of the Revenue and Taxation Code.

(d) All repairs subsidized by the state through the program shall be performed at a repair station licensed and certified pursuant to Sections 44014 and 44014.2 at the time of testing and application for an economic hardship extension. Repair shall be based upon a preapproved list of repairs for cost-effective emission reductions.

(e) The qualified low-income motor vehicle owner receiving repair assistance pursuant to this section shall contribute a copayment equivalent to the repair cost limit, as determined by the department as specified in Section 44017.1, either in cash, or in emissions-related partial repairs as verified by a test-only station pursuant to paragraph (2) of subdivision (c) of Section 44015, or a combination thereof. If the repair cost exceeds the applicable repair cost limit, the department shall inform a qualified low-income motor vehicle owner of all options for compliance at the time of testing and repair.

(f) The department shall collect data from the program to provide information on how to improve the program. Data collection shall include all of the following:

(1) The number of low-income motor vehicle owners that are eligible for repair assistance.

(2) The number of eligible motor vehicle owners that use repair assistance funds.

(3) The potential for fraud.

(4) The average repair bills.

(5) The types of repairs being done.

(6) The amount of partial repairs done prior to receipt of repair assistance.

(7) The emissions benefits of providing repair assistance.

(g) The department shall collect data and develop information and shall report to the Legislature on or before April 1, 1999, on eligibility criteria, program participation, the cost of vehicle repairs, and the funding resources needed to implement the program.

(h) For purposes of this section, "low-income motor vehicle owner" means a person whose income does not exceed 175 percent of the federal poverty level.

SEC. 11. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs 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. 12. (a) This act shall become operative only if both Assembly Bill 208 and Assembly Bill 1492 of the 1997–98 Regular Session of the Legislature are enacted and take effect on or before January 1, 1998.

(b) It is the intent of the Legislature that this bill be chaptered after both Assembly Bill 208 and Assembly Bill 1492 of the 1997–98 Regular Session of the Legislature.

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## CHAPTER 805

An act to add and repeal Section 115800.1 of the Health and Safety Code, relating to liability.

[Approved by Governor October 8, 1997. Filed with Secretary of State October 9, 1997.]

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

SECTION 1. Section 115800.1 is added to the Health and Safety Code, to read:

115800.1. (a) In-line skating by an adult shall be deemed a hazardous recreational activity within the meaning of Section 831.7 of the Government Code if all of the following conditions are met:

(1) The local public agency has, by legislative action, designated specific public property as a recreational area, boardwalk, or park in which in-line skating is permitted.

(2) The designated area, boardwalk, or park is adequately posted with notices advising the public that in-line skating in the designated area by adults is deemed to be a hazardous recreational activity and that the public entity may not be liable for injuries incurred by persons participating in the hazardous recreational activity in the designated area, boardwalk, or park.

(b) Nothing in Section 831.7 of the Government Code or this section shall be deemed to limit the duty of a public entity to maintain public property or premises in a safe manner.

(c) The Judicial Council shall collect information from the courts regarding lawsuits filed by persons injured while in-line skating on public property, including the results of those lawsuits. The Judicial Council shall also collect information, to the extent it is available, from local public agencies regarding incidents and claims by in-line skaters injured on designated public property for in-line skating. The Judicial Council shall issue a report containing this information to the Legislature on or before March 31, 2000.

(d) 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.

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## CHAPTER 806

An act to add Sections 7284.6 and 7284.7 to the Revenue and Taxation Code, relating to taxation.

[Approved by Governor October 8, 1997. Filed with Secretary of State October 9, 1997.]

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

SECTION 1. Section 7284.6 is added to the Revenue and Taxation Code, to read:

7284.6. (a) It is unlawful for any local jurisdiction, including any employee, officer, authorized agent, or contractor of the local jurisdiction, to permit any utility user's tax return or copy thereof, or any records of any payment of utility user's tax, to be seen or examined by, or disclosed to, any person who is not one of the following:

(1) An employee, officer, authorized agent, or contractor of the local jurisdiction with administrative or compliance responsibilities relating to the utility user's tax ordinance.

(2) An employee of the utility or other company that is required to report or pay a utility user's tax to the local jurisdiction, and that furnished the records or information.

(b) Notwithstanding subdivision (a), this section does not prohibit a local jurisdiction from doing any of the following:

(1) Disclosing to a taxpayer information derived from the records of a utility or other utility service provider, if the information is used to calculate the utility user's tax of that taxpayer; or, disclosing that information in a tax collection action, provided that that information is subject to a protective order issued by a court.

(2) Disclosing to a tax officer of the state or federal government, pursuant to a written reciprocal agreement, information derived from the records of a utility or other utility service provider, if the information is used to calculate the local utility user's tax.

(3) Disclosing the gross utility user's tax revenues collected from the customers of a utility that is owned or operated by the local jurisdiction that imposes the utility user's tax.

(c) For purposes of this section:

(1) "Local jurisdiction" means any city, county, city and county, including any chartered city or city and county, district, or public or municipal corporation.

(2) "District" means any agency of the state, formed pursuant to general law or a special act, for the local performance of governmental or proprietary functions within limited boundaries.

(d) Any violation of this section is a misdemeanor and is punishable by a fine not exceeding one thousand dollars ($1,000), by imprisonment in a county jail not exceeding one year, or by both, in the discretion of the court.

(e) This section shall not be construed to prohibit the divulging of information to the State Board of Equalization for the purposes of its administration of the Energy Resources Surcharge Law (Part 19 (commencing with Section 40001) of Division 2 of the Revenue and Taxation Code).

(f) Any information subject to subdivision (a) shall be exempt from disclosure under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of the Government Code), except that nothing in this section shall be construed to prohibit the disclosure of records pursuant to Section 6254.16 of the Government Code.

SEC. 2. Section 7284.7 is added to the Revenue and Taxation Code, to read:

7284.7. (a) It is unlawful for any employee, officer, authorized agent or contractor of a local jurisdiction levying a utility user's tax, that obtains access to information contained in utility user tax records of a local jurisdiction, to disclose any information obtained from the records of a utility or other company required to report or pay a utility user's tax to the local jurisdiction as a result of an audit, or any other information obtained in the course of an on-site audit, to any person who is not an employee, officer, authorized agent, or contractor of the local jurisdiction with administrative or compliance responsibilities relating to the utility user's tax ordinance.

(b) Any violation of this section is a misdemeanor and is punishable by a fine not exceeding one thousand dollars ($1,000), by imprisonment in a county jail not exceeding one year, or by both, in the discretion of the court.

(c) This section shall not be construed to prohibit the divulging of information to the State Board of Equalization for the purposes of its administration of the Energy Resources Surcharge Law (Part 19 (commencing with Section 40001) of Division 2 of the Revenue and Taxation Code).

(d) Notwithstanding subdivisions (a) and (b), this section shall not be construed to prohibit an employee, officer, authorized agent,

or contractor of a local jurisdiction levying a utility user's tax from doing any of the following:

(1) Disclosing to a taxpayer information derived from the records of a utility or other utility service provider, if the information is used to calculate the utility user's tax of that taxpayer; or, disclosing that information in a tax collection action, provided that the information is subject to a protective order issued by a court.

(2) Disclosing to a tax officer of the state or federal government, pursuant to a written reciprocal agreement, information obtained from the records of a utility or other utility service provider, if the information is used to calculate the local utility user's tax.

(3) Disclosing the gross utility user's tax revenues collected from the customers of a utility that is owned or operated by the local jurisdiction that imposes the utility user's tax.

(e) For purposes of this section:

(1) "Local jurisdiction" means any city, county, city and county, including any chartered city or city and county, district, or public or municipal corporation.

(2) "District" means any agency of the state, formed pursuant to general law or a special act, for the local performance of governmental or proprietary functions within limited boundaries.

(f) Nothing in this section shall be construed to create an exemption from disclosure under subdivision (k) of Section 6254 of the Government Code, or to prohibit the disclosure of records pursuant to Section 6254.16 of the Government Code or subdivision (i) of Section 6254 of the Government 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.

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## CHAPTER 807

An act to amend Sections 3306 and 3440 of the Business and Professions Code, relating to hearing aid dispensers.

[Approved by Governor October 8, 1997. Filed with Secretary of State October 9, 1997.]

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

SECTION 1. Section 3306 of the Business and Professions Code is amended to read:

3306. (a) "Practice of fitting or selling hearing aids," as used in this chapter, means those practices used for the purpose of selection and adaptation of hearing aids, including direct observation of the ear, testing of hearing in connection with the fitting and selling of hearing aids, taking of ear mold impressions, fitting or sale of hearing aids, and any necessary postfitting counseling.

The practice of selling hearing aids does not include the act of concluding the transaction by a retail clerk.

When any audiometer or other equipment is used in the practice of fitting or selling hearing aids, it shall be kept properly calibrated and in good working condition, and the calibration of the audiometer or other equipment shall be checked at least annually.

(b) A hearing aid dispenser shall not conduct diagnostic hearing tests when conducting tests in connection with the fitting or selling of hearing aids.

(c) Hearing tests conducted pursuant to this chapter shall include those that are in compliance with the Food and Drug Administration Guidelines for Hearing Aid Devices and those that are specifically covered in the licensing examination prepared and administered by the Hearing Aid Dispensers Examining Committee.

SEC. 2. Section 3440 of the Business and Professions Code is amended to read:

3440. When tests are conducted by persons licensed under this chapter in connection with the fitting and selling of hearing aids, the provisions of this chapter shall apply.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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

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## CHAPTER 808

An act to amend Sections 25284 and 25299.50 of, and to add Section 25292.3 to, the Health and Safety Code, relating to hazardous substances.

[Approved by Governor October 8, 1997. Filed with Secretary of State October 9, 1997.]

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

SECTION 1. Section 25284 of the Health and Safety Code is amended to read:

25284. (a) (1) Except as provided in subdivision (c), no person shall own or operate an underground storage tank unless a permit for its operation has been issued by the local agency to the owner or operator of the tank, or a unified program facility permit has been issued by the local agency to the owner or operator of the unified program facility on which the tank is located.

(2) If the operator is not the owner of the tank, or if the permit is issued to a person other than the owner or operator of the tank, the permittee shall ensure that both the owner and the operator of the tank are provided with a copy of the permit.

(3) If the permit is issued to a person other than the operator of the tank, that person shall do all of the following:

(A) Enter into a written agreement with the operator of the tank to monitor the tank system as set forth in the permit.

(B) Provide the operator with a copy or summary of Section 25299 in the form that the board specifies by regulation.

(C) Notify the local agency of any change of operator.

(b) Each local agency shall prepare a form that provides for the acceptance of the obligations of a transferred permit by any person who is to assume the ownership of an underground storage tank from the previous owner and is to be transferred the permit to operate the tank. That person shall complete the form accepting the obligations of the permit and submit the completed form to the local agency within 30 days from the date that the ownership of the underground storage tank is to be transferred. A local agency may review and modify, or terminate, the transfer of the permit to operate the underground storage tank, pursuant to the criteria specified in subdivision (a) of Section 25295, upon receiving the completed form.

(c) Any person assuming ownership of an underground storage tank used for the storage of hazardous substances for which a valid operating permit has been issued shall have 30 days from the date of assumption of ownership to apply for an operating permit pursuant to Section 25286 or, if accepting a transferred permit, shall submit to the local agency the completed form accepting the obligations of the transferred permit, as specified in subdivision (b). During the period

from the date of application until the permit is issued or refused, the person shall not be held to be in violation of this section.

(d) A permit issued pursuant to this section shall apply and require compliance with all applicable regulations adopted by the board pursuant to Section 25299.3.

(e) A permit issued for a petroleum underground storage tank system that meets the requirements of Section 25291 or subdivisions (d) and (e) of Section 25292 and related regulations adopted pursuant to Section 25299.3 shall include an upgrade compliance certificate, the color, size, and content of which shall be specified by the board, that documents that the petroleum underground storage tank system meets the requirements of Section 25291 or subdivisions (d) and (e) of Section 25292 and related regulations. The owner shall place the upgrade compliance certificate in a conspicuous location that can be readily viewed by any person depositing petroleum into the underground storage tank system.

(f) On or before December 22, 1998, the board shall notify all persons that may deliver petroleum to an underground storage tank of where they can obtain a list of underground storage tank facilities that have been issued an upgrade compliance certificate. Local agencies shall maintain a list of underground storage tank facilities that have been issued an upgrade compliance certificate and shall provide this information to anyone requesting it.

SEC. 2. Section 25292.3 is added to the Health and Safety Code, to read:

25292.3. (a) On and after January 1, 1999, no person shall deposit petroleum into an underground storage tank system unless the underground storage tank system meets the requirements of Section 25291 or subdivisions (d) and (e) of Section 25292 and related regulations adopted pursuant to Section 25299.3.

(b) Any person depositing petroleum into an underground storage tank system shall verify that the system meets the requirements of Section 25291 or subdivisions (d) and (e) of Section 25292, and related regulations adopted pursuant to Section 25299.3, by taking one of the following actions:

(1) Viewing the upgrade compliance certificate for the petroleum underground storage tank system displayed pursuant to subdivision (e) of Section 25284.

(2) Obtaining written verification from the local agency that the petroleum underground storage tank system is on a list maintained by a local agency pursuant to subdivision (f) of Section 25284.

(3) Obtaining a correct copy of the upgrade compliance certificate from the owner or operator of the petroleum underground storage tank system.

SEC. 3. Section 25299.50 of the Health and Safety Code is amended to read:

25299.50. (a) The Underground Storage Tank Cleanup Fund is hereby created in the State Treasury. The money in the fund may be

expended by the board, upon appropriation by the Legislature, for purposes of this chapter. From time to time, the board may modify existing accounts or create accounts in the fund or other funds administered by the board, which the board determines are appropriate or necessary for proper administration of this chapter.

(b) All of the following amounts shall be deposited in the fund:

(1) Money appropriated by the Legislature for deposit in the fund.

(2) The fees, interest, and penalties collected pursuant to Article 5 (commencing with Section 25299.40).

(3) Notwithstanding Section 16475 of the Government Code, any interest earned upon the money deposited in the fund.

(4) Any money recovered by the fund pursuant to Section 25299.70.

(5) Any civil penalties collected by the board or regional board pursuant to Section 25299.76.

(c) Notwithstanding subdivision (a), any funds appropriated by the Legislature in the annual Budget Act for payment of a claim for the costs of a corrective action in response to an unauthorized release, that are encumbered for expenditure for a corrective action pursuant to a letter of credit issued by the board pursuant to subdivision (e) of Section 25299.57, but are subsequently not expended for that corrective action claim, may be reallocated by the board for payment of other claims for corrective action pursuant to Section 25299.57. The board shall report at least once every three months on the implementation of this subdivision to the Senate Committee on Budget and Fiscal Review, the Senate Committee on Environmental Quality, the Assembly Committee on Budget, and the Assembly Committee on Environmental Safety and Toxic Materials, or to any successor committee, and to the Director of Finance.

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## CHAPTER 809

An act to amend Sections 18895.2, 18897.63, and 18897.87 of, to add Sections 18897.1 and 18897.97 to, and to add Article 1.5 (commencing with Section 18896) to Chapter 2.5 of Division 8 of, the Business and Professions Code, relating to athlete agents.

[Approved by Governor October 8, 1997. Filed with Secretary of State October 9, 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 18896.6, 18897.6 and 18897.63 do not apply to an individual acting as an athlete agent solely for his or her spouse, child, foster child, ward, 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. Article 1.5 (commencing with Section 18896) is added to Chapter 2.5 of Division 8 of the Business and Professions Code, to read:

### Article 1.5. Public Disclosure

18896. To assist enforcement of this chapter, each athlete agent, prior to engaging in or carrying on the business of athlete agent, shall file the following information with the Secretary of State, in the form that the Secretary of State shall prescribe, concerning the athlete agent and each individual acting as an athlete agent within a firm, company, or partnership:

(a) The name, residence address, social security number, and driver's license number.

(b) The street and address number of all locations where the business of the athlete agent is to be conducted.

(c) The name and business address of a designated agent in California for service of process, as required by Section 18897.83.

(d) All businesses or occupations engaged in for the two years immediately preceding the date of filing.

(e) Any convictions for any of the following:

(1) A felony.

(2) A misdemeanor involving a violation of this chapter, or Chapter 1 (commencing with Section 1500) of Part 6 of Division 2 of the Labor Code as repealed by Chapter 857 of the Statutes of 1996, or the law of any other state governing athlete agents.

(3) Fraud, theft, embezzlement, fraudulent conversion, or misappropriation of property.

(f) (1) The name of the insurer providing the security required by Section 18897.87, and the amount of that insurance coverage, if the athlete agent provides some or all of that security in the manner required by subdivision (a) of Section 18897.87.

(2) The value and specific location of the security required by Section 18897.87, if the athlete agent provides some or all of that security in the manner required by subdivision (b) of Section 18897.87.

(g) Any appearances before any disciplinary or professional board, association, secretary, committee, or other entity as a result of disciplinary charges or other allegations of misconduct against the athlete agent or individual, and the outcome of those proceedings.

(h) Whether or not any student athlete or any educational institution has been sanctioned, suspended, or declared ineligible to participate in one or more interscholastic or intercollegiate athletic events in any proceeding arising from, or related to, the actions of the athlete agent.

(i) All past and present persons on behalf of whom the athlete agent or individual has acted as an athlete agent.

(j) The names of any players' associations with whom the athlete agent is registered.

(k) At least three references.

(*l*) Affidavits or certificate or completion of any and all formal training or practical experience in any of the following specific areas: contracts, contract negotiation, complaint resolution, arbitration, or civil resolution of contract disputes.

(m) The names and residence addresses of all persons financially interested in the operation of the business of the athlete agent, whether as employees, partners, investors, associates, or profit sharers, or in any other manner.

(n) A schedule of fees to be charged and collected in the conduct of the athlete agent business.

18896.2. (a) Within seven days of the time any information in the filing required by Section 18896 changes, the athlete agent shall file revised information in the form that the Secretary of State shall prescribe.

(b) No revision of a fee schedule filed pursuant to subdivision (n) of Section 18896 shall be effective until it is filed pursuant to this section.

18896.3. The forms prescribed by the Secretary of State pursuant to Sections 18896 and 18896.2 shall include the following statement:

"Filing of false, misleading, or incomplete statements on this form may subject you to criminal and civil penalties under the Miller-Ayala Athlete Agents Act, Chapter 2.5 (commencing with Section 18895) of Division 8 of the Business and Professions Code."

18896.4. Sections 18896 and 18896.2 do not require the disclosure of information related solely and exclusively to other businesses of the athlete agent.

18896.6. Upon making first contact, direct or indirect, with a professional athlete, a student athlete, a student athlete's spouse, parent, foster parent, guardian, sibling, aunt, uncle, grandparent, child, or first cousin, any of the preceding persons for whom a relationship has been established by marriage, or any person residing in the same place as a student athlete, or a representative of any of these persons, an athlete agent, or his or her employee or representative, shall provide that person with a written notification stating: "This athlete agent has current public-disclosure information on file with the California Secretary of State as required by the Miller-Ayala Athlete Agents Act, Chapter 2.5 (commencing with Section 18895) of Division 8 of the Business and Professions Code, which also includes other protections for athletes. Filing of the required information does not imply approval by the California Secretary of State of the competence of the athlete agent." The notification shall also include specific instructions on how to obtain the public disclosure information from the Secretary of State.

18896.8. (a) An athlete agent shall pay filing fees in an amount established pursuant to subdivision (b) upon making the filings required by Sections 18896 and 18896.2.

(b) The Secretary of State shall set applicable filing fees in the amounts necessary to generate revenue sufficient to cover the costs of administration of this chapter.

(c) All fees collected by the Secretary of State under this chapter shall be paid into the State Treasury and credited to the Business Fees Fund of the Secretary of State.

SEC. 3. Section 18897.1 is added to the Business and Professions Code, to read:

18897.1. The following shall be printed on the first page of every agent contract in boldface type at least two points larger than any other type on the page: "This athlete agent has current public disclosure information on file with the California Secretary of State

as required by the Miller-Ayala Athlete Agents Act, Chapter 2.5 (commencing with Section 18895) of Division 8 of the Business and Professions Code, which also includes other protections for athletes. Filing of the required information does not imply approval by the California Secretary of State of the terms and conditions of this agent contract or the competence of the athlete agent."

SEC. 4. Section 18897.63 of the Business and Professions Code is amended to read:

18897.63. (a) Except as otherwise provided in this section, no athlete agent or athlete agent's representative or employee may make or continue any contact, whether in person, in writing, electronically, or in any other manner, with any student athlete, or any student athlete's spouse, parent, foster parent, guardian, grandparent, child, sibling, aunt, uncle, or first cousin, or any of the preceding persons for whom the relationship has been established by marriage, or any person who resides in the same place as the student athlete, or any representative of any of these persons.

(b) An athlete agent or athlete agent's representative or employee may send a student athlete, or any of the other persons described in subdivision (a), written materials, provided that the athlete agent previously has sent, or simultaneously sends, an identical copy of the materials to the principal, president, or other chief administrator of the elementary or secondary school, college, university, or other educational institution to which the student athlete has been admitted or in which the student athlete is enrolled.

(c) If a student athlete, or any of the other persons described in subdivision (a), initiates contact with an athlete agent or athlete agent's representative or employee, the athlete agent, representative or employee may continue the contact and make new contacts with that person. No later than the first regular business day after that person first initiates contact, the athlete agent shall notify in writing the principal, president, or other chief administrator of the elementary or secondary school, college, university, or other educational institution to which the student athlete has been admitted or in which the student athlete is enrolled, of that contact. The notification shall describe the nature of the contact.

(d) Any written material described in subdivision (b) and any notification required by subdivision (c), shall include the notification required by Section 18896.6.

(e) This section does not apply to any contact between an athlete agent or athlete agent's representative or employee and a student athlete or any of the other persons described in subdivision (a), if and solely to the extent that the contact is initiated by an elementary or secondary school, college, university, or other educational institution to which the student athlete has been admitted or in which the student athlete is enrolled.

SEC. 5. Section 18897.87 of the Business and Professions Code is amended to read:

18897.87. Every athlete agent shall provide security for claims against the athlete agent or the athlete agent's representatives or employees based upon acts, errors, or omissions arising out of the business of the athlete agent through either one or an aggregate of both of the following:

(a) A policy or policies of insurance against liability imposed on or against the agent by law for damages arising out of claims in an amount for each claim of at least one hundred thousand dollars ($100,000).

(b) In trust or bank escrow, cash, bank certificates of deposit, United States Treasury obligations, bank letters of credit, or bonds of insurance companies as security for payment of liabilities imposed by law for damages arising out of all claims in an amount of at least one hundred thousand dollars ($100,000).

SEC. 6. Section 18897.97 is added to the Business and Professions Code, to read:

18897.97. The Secretary of State may, in accordance with Chapter 3.5 (commencing with Section 11430) of Part 1 of Division 3 of Title 2 of the Government Code, adopt, amend, and repeal rules and regulations reasonably necessary for the purpose of administering this chapter and consistent with this chapter.

SEC. 7. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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

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## CHAPTER 810

An act to amend Sections 1095 and 1137.1 of the Unemployment Insurance Code, relating to unemployment insurance.

[Approved by Governor October 8, 1997. Filed with Secretary of State October 9, 1997.]

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

SECTION 1. 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 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.

(v) 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.

(w) 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.

(x) 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.

(y) The disclosure of the name and address of an individual or business entity that was issued an assessment that included penalties under Section 1128 or 1128.1 shall not be in violation of Section 1094 if the assessment is final. The disclosure may also include any of the following:

(1) The total amount of the assessment.

(2) The amount of the penalty imposed under Section 1128 or 1128.1 that is included in the assessment.

(3) The facts that resulted in the charging of the penalty under Section 1128 or 1128.1.

SEC. 1.2. 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. The director may require reimbursement for all direct costs incurred in providing any and all information specified in subdivisions (f) to (s), inclusive.

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

(b) To properly present a claim for benefits.

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

(d) 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).

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

(f) To enable federal, state, or local governmental departments or agencies 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 Division 9 (commencing with Section 10000) of the Welfare and Institutions Code, or Part A of Title IV of the Social Security Act, and where the determination or verification

is directly connected with, and limited to, the administration of public social services.

(g) 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.

(h) To enable state or local governmental departments or agencies 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 or to enable the collection of expenditures for medical assistance services pursuant to Part 5 (commencing with Section 17000) of Division 9 of the Welfare and Institutions Code.

(i) 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 or by any federal law enforcement officer to whom the Attorney General has delegated authority to enforce federal search warrants, as defined in Sections 60.2 and 60.3 of Title 28 of the Code of Federal Regulations, as amended, and when the requesting officer has been designated by the head of the law enforcement agency and 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.

(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.

(j) 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.

(k) To provide public employee retirement systems in California with information relating to the earnings of any person who has applied for or is receiving a disability income, disability allowance, or disability retirement allowance from a public employee retirement system. The earnings information shall be released only upon written request from the governing board specifying that the person has applied for or is receiving a disability allowance or disability retirement allowance from its retirement 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.

(*l*) 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, and Chapter 1 (commencing with Section 1720) of Part 7 of, Division 2 of, the Labor Code.

(m) To enable federal, state, or local governmental departments or agencies to administer child support enforcement programs under Title IV of the Social Security Act (42 U.S.C. Sec. 651 et seq.).

(n) To provide federal, state, or local governmental departments or agencies with wage and claim information in its possession that will assist those departments and agencies in the administration of the victims of crime program or 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.

(o) To provide federal, state, or local governmental departments or agencies with information concerning any individuals who are or have been either of the following:

(1) Directed by state mandate or court order to pay restitution, fines, penalties, assessments, or fees as a result of a violation of law.

(2) Delinquent or in default on guaranteed student loans or who owe repayment of funds received through other financial assistance programs administered by those agencies. The information released by the director for the purposes of this subdivision shall not include unemployment insurance benefit information.

(p) 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.

(q) 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.

(r) 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.

(s) 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.

(t) The disclosure of the name and address of an individual or business entity that was issued an assessment that included penalties under Section 1128 or 1128.1 shall not be in violation of Section 1094 if the assessment is final. The disclosure may also include any of the following:

(1) The total amount of the assessment.

(2) The amount of the penalty imposed under Section 1128 or 1128.1 that is included in the assessment.

(3) The facts that resulted in the charging of the penalty under Section 1128 or 1128.1.

SEC. 1.4. 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.

(z) The disclosure of the name and address of an individual or business entity that was issued an assessment that included penalties under Section 1128 or 1128.1 shall not be in violation of Section 1094 if the assessment is final. The disclosure may also include any of the following:

(1) The total amount of the assessment.

(2) The amount of the penalty imposed under Section 1128 or 1128.1 that is included in the assessment.

(3) The facts that resulted in the charging of the penalty under Section 1128 or 1128.1.

SEC. 1.6. 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. The director may require reimbursement for all direct costs incurred in providing any and all information specified in subdivisions (f) to (s), inclusive.

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

(b) To properly present a claim for benefits.

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

(d) 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).

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

(f) To enable federal, state, or local governmental departments or agencies 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 Division 9 (commencing with Section 10000) of the Welfare and Institutions Code, or Part A of Title IV of the Social Security Act, and where the determination or verification is directly connected with, and limited to, the administration of public social services.

(g) 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.

(h) To enable state or local governmental departments or agencies 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 or to enable the collection of expenditures for medical assistance services pursuant to Part 5 (commencing with Section 17000) of Division 9 of the Welfare and Institutions Code.

(i) 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 or by any federal law enforcement officer to whom the Attorney General has delegated authority to enforce federal search warrants, as defined in Sections 60.2 and 60.3 of Title 28 of the Code of Federal Regulations, as amended, and when the requesting officer has been designated by the head of the law enforcement agency and 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.

(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.

(j) 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.

(k) To provide public employee retirement systems in California with information relating to the earnings of any person who has applied for or is receiving a disability income, disability allowance, or disability retirement allowance from a public employee retirement system. The earnings information shall be released only upon written request from the governing board specifying that the person has applied for or is receiving a disability allowance or disability retirement allowance from its retirement 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.

(*l*) 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.

(m) To enable federal, state, or local governmental departments or agencies to administer child support enforcement programs under Title IV of the Social Security Act (42 U.S.C. Sec. 651 et seq.).

(n) To provide federal, state, or local governmental departments or agencies with wage and claim information in its possession that will assist those departments and agencies in the administration of the victims of crime program or 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.

(o) To provide federal, state, or local governmental departments or agencies with information concerning any individuals who are or have been either of the following:

(1) Directed by state mandate or court order to pay restitution, fines, penalties, assessments, or fees as a result of a violation of law.

(2) Delinquent or in default on guaranteed student loans or who owe repayment of funds received through other financial assistance programs administered by those agencies. The information released by the director for the purposes of this subdivision shall not include unemployment insurance benefit information.

(p) 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.

(q) 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.

(r) 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.

(s) 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.

(t) 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.

(u) The disclosure of the name and address of an individual or business entity that was issued an assessment that included penalties under Section 1128 or 1128.1 shall not be in violation of Section 1094 if the assessment is final. The disclosure may also include any of the following:

(1) The total amount of the assessment.

(2) The amount of the penalty imposed under Section 1128 or 1128.1 that is included in the assessment.

(3) The facts that resulted in the charging of the penalty under Section 1128 or 1128.1.

SEC. 2. Section 1137.1 of the Unemployment Insurance Code is amended to read:

1137.1. A jeopardy assessment may be made only upon a finding by the director, based upon probable cause, that any of the following conditions are met:

(a) The employing unit is insolvent.

(b) The employing unit has transferred, or is about to transfer, assets for less than fair market value, and by so doing has rendered, or is likely to render, itself insolvent.

(c) The employing unit has been dissolved.

(d) Any person liable for the employing unit's contribution, or any owner, officer, director, partner, or other person having charge of the affairs of the employing unit has departed or is about to depart the State of California and that the departure is likely to deprive the director of a source of payment of the employing unit's contribution.

(e) Any person referred to in subdivision (d), or the employing unit, is secreting assets or is moving, placing, or depositing assets outside of the state for the purpose of interfering with the orderly collection of any contribution. The moving, placing, or depositing of assets outside of the state which constitutes a regular business practice and which does not in any way deplete the assets of the employing unit shall not be deemed to be interfering with the orderly collection of any contribution under this subdivision.

(f) The assessment to be issued against the employing unit or an individual includes a penalty under subdivision (a) of Section 1128 or Section 1128.1.

SEC. 3. (a) Section 1.2 of this bill incorporates amendments to Section 1095 of the Unemployment Insurance Code proposed by both this bill and AB 604. 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 1095 of the Unemployment Insurance Code, and (3) AB 71 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 604, in which case Sections 1, 1.4, and 1.6 of this bill shall not become operative.

(b) Section 1.4 of this bill incorporates amendments to Section 1095 of the Unemployment Insurance Code proposed by both this bill

and AB 71. 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 1095 of the Unemployment Insurance Code, (3) AB 604 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 71 in which case Sections 1, 1.2, and 1.6 of this bill shall not become operative.

(c) Section 1.6 of this bill incorporates amendments to Section 1095 of the Unemployment Insurance Code proposed by this bill, AB 604, and AB 71. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 1998, (2) all three bills amend Section 1095 of the Unemployment Insurance Code, and (3) this bill is enacted after AB 604 and AB 71, in which case Sections 1, 1.2, and 1.4 of this bill shall not become operative.

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## CHAPTER 811

An act to add and repeal Chapter 7 (commencing with Section 99300) of Part 65 of the Education Code, relating to postsecondary education.

[Approved by Governor October 8, 1997. Filed with Secretary of State October 9, 1997.]

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

SECTION 1. Chapter 7 (commencing with Section 99300) is added to Part 65 of the Education Code, to read:

### Chapter 7. Student Academic Partnership Program

99300. The Legislature finds and declares all of the following:

(a) The California Education Roundtable has called for a doubling of the number of college and university students working as tutors in public schools.

(b) Students in colleges and universities are an untapped resource to meet the challenge of improving pupil achievement in kindergarten and grades 1 to 6, inclusive.

(c) Current tutoring and mentoring programs have been evaluated positively by the California Postsecondary Education Commission, but are inadequate to assist the large number of pupils in kindergarten and grades 1 to 6, inclusive, at the point when basic foundation learning skills are being developed.

(d) Tutoring programs in elementary schools are an effective way to encourage college and university students and others to become teachers.

(f) Despite many voluntary and local student community service programs, there is no structured statewide program that is dedicated

to giving incentives for placement of college and university students and other qualified persons in elementary schools to assist children in their schoolwork, serve as role models, and stimulate interest in education as a career.

99301. (a) There is hereby established the Student Academic Partnership Program to enable school districts to provide preservice training to prospective teachers and to secure tutoring assistance for pupils in kindergarten and grades 1 to 6, inclusive.

(b) The objectives of the Student Academic Partnership Program shall be all of the following:

(1) To increase the number of tutors in kindergarten and grades 1 to 6, inclusive, by involving trained tutors, with emphasis on tutors from colleges and universities.

(2) To raise the level of academic preparation and educational aspirations of pupils in kindergarten and grades 1 to 6, inclusive, through tutoring and positive role models.

(3) To assist students in meeting the costs of their college or university education by providing them with useful work in the public schools.

(4) To expose significant numbers of college and university students and other individuals to the possibilities of careers in teaching and provide them with classroom-based experience in preparation for this career choice.

(5) To promote greater sharing and cooperation among the public schools, colleges, universities, and the larger community in the task of improving pupil achievement.

(c) For the purposes of this chapter, "colleges and universities" includes the respective campuses of the University of California, the California State University, and California Community Colleges.

99302. (a) Schoolsites at which tutoring services are provided shall be identified and funded through a competitive process administered by the State Department of Education in consultation with interested school districts and tutor providers.

(b) A tutor receiving remuneration shall be paid directly by the school district or through a contract entered into with participating colleges and universities.

(c) The academic faculty of colleges and universities are encouraged to consider providing academic credit to those students who are tutoring in conjunction with their college coursework and under faculty supervision.

(d) Colleges and universities that choose to participate in the Student Academic Partnership Program shall recruit persons interested in serving as tutors, coordinate their assignments, assist in their training and orientation, and monitor their service activities. The schoolsite shall be primarily responsible for the day-to-day supervision of tutors. Each schoolsite shall provide for the training of tutors, their assignment to specific classrooms, supervision of tutors, and feedback to tutor providers. Tutors shall be trained in the use of

learning techniques to improve the reading, writing, and mathematics skills of pupils enrolled in kindergarten and any of grades 1 to 6, inclusive. Teachers and district curriculum specialists in kindergarten and grades 1 to 6, inclusive, in consultation with college and university faculty, shall develop training modules for tutors.

(e) Tutor services may be provided before, during, or after school as the schoolsite determines.

(f) Tutor services shall be provided to assist pupils in kindergarten and grades 1 to 6, inclusive, to meet state standards adopted pursuant to Section 60605 in the core curriculum areas, as defined in subdivision (e) of Section 60603.

99303. Schoolsites are strongly encouraged to establish linkages and to coordinate schoolsite programs providing community service volunteers through other local and statewide programs.

99304. The Legislature encourages collaboration among colleges and universities and schools maintaining kindergarten and any of grades 1 to 6, inclusive, to determine community needs, discuss program goals, and coordinate efforts.

99305. This chapter shall only become operative if an appropriation is made for its purposes in the Budget Act of 1997 or in another statute enacted during the 1997 portion of the 1997–98 Regular Session.

99306. The State Department of Education shall create an evaluation design for the Student Academic Partnership Program. School districts that receive grants under this chapter shall use this evaluation design to assess the effectiveness of their programs. These school districts shall transmit their assessments to the department. The department shall develop a report to be submitted to the Legislature on or before March 1, 1999.

99307. This chapter shall become inoperative on June 30, 2003, and, as of January 1, 2004, is repealed, unless a later enacted statute that becomes operative on or before January 1, 2004, deletes or extends the dates on which it becomes inoperative and is repealed.

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## CHAPTER 812

An act to amend Sections 7000.5, 7011, 7057, 7155.5, 7156, 7157, and 7159 of, and to add and repeal Section 7019.1 of, the Business and Professions Code, relating to contractors.

[Approved by Governor October 8, 1997. Filed with Secretary of State October 9, 1997.]

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

SECTION 1. Section 7000.5 of the Business and Professions Code is amended to read:

7000.5. (a) There is in the Department of Consumer Affairs a Contractors' State License Board, which consists of 13 members.

(b) The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473). However, the review of this board by the department shall be limited to only those unresolved issues identified by the Joint Legislative Sunset Review Committee.

(c) This section shall become inoperative on July 1, 2000, and, as of January 1, 2001, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2001, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 2. Section 7011 of the Business and Professions Code is amended to read:

7011. The board by and with the approval of the director shall appoint a registrar of contractors and fix his or her compensation.

The registrar shall be the executive officer and secretary of the board and shall carry out all of the administrative duties as provided in this chapter and as delegated to him or her by the board.

For the purpose of administration of this chapter, there may be appointed a deputy registrar, a chief reviewing and hearing officer and, subject to Section 159.5, other assistants and subordinates as may be necessary.

Appointments shall be made in accordance with the provisions of civil service laws.

This section shall become inoperative on July 1, 2000, and, as of January 1, 2001, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2001, deletes or extends the dates on which it becomes inoperative and is repealed.

Section 7019.1 is added to the Business and Professions Code, to read:

7019.1. (a) On and after July 1, 1998, the board shall furnish a copy of any opinion prepared by the licensed professional, including any contractor, retained pursuant to Section 7019, to the complainant, to the licensee against whom the complaint has been made, and, upon request, to the successors, receivers, trustees, executors, administrators, assignees, or guarantors of either party, if directly or collaterally interested under this chapter or otherwise as provided by law.

(b) The opinion specified in subdivision (a) shall include all of the following:

(1) An identification of the nature of the condition that produced the complaint and the cause or basis or contributing cause of that condition.

(2) Whether the cause or basis of the condition complained of constituted a departure from plans, codes, or accepted trade standards.

(3) What the code provisions or trade standards specified in paragraph (2) are.

(4) The cost to correct each item identified under paragraph (2) as being the result of a departure from plans, specifications, codes, or accepted trade standards.

(5) The cost to correct the damages specified in paragraph (4) was established on the following basis:

☐ Time and Materials

☐ Unit Cost

☐ Other (identify) ______________________________

and was calculated from standards provided by

☐ Means Data Systems
☐ Dodge Data Systems
☐ National Construction Estimator
☐ Marshall—Swift
☐ Software Program (identify) ____________________
☐ Other (identify) ___________________________

(c) The opinion shall also provide the name, identification, address, license number, and license classification or classifications of the professional who prepared the opinion, and a statement of any other qualifications that the professional asserts he or she relied upon as stated in the industry expert report submitted to the board. The license and other information required to be furnished under this subdivision may be provided on a form prescribed by the registrar.

The opinion shall also state the date or dates of any inspection of the site or other investigation and the date of the report. The board shall endeavor to assure that all items in subdivision (b) that are subject to the pertinent cause of action are completed on the report.

(d) The board shall make the opinion available on, or promptly following, the earliest date upon which the opinion or the information from it is available for the purpose of mediation or the purpose of preparing a citation pursuant to Section 7099, or to any arbitrator or arbitration panel, or the date of service of any accusation pursuant to Section 11505 of the Government Code on any matter upon which the opinion relates.

(e) The board may impose a charge for furnishing a copy of an opinion pursuant to this section to any person except the complainant

or the licensee against whom the complaint has been made. The charge shall be reasonably related to the cost of preparing and transmitting that copy and of processing the request.

(f) This section shall become inoperative on July 1, 2000, and, as of January 1, 2001, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2001, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 2. Section 7057 of the Business and Professions Code is amended to read:

7057. (a) Except as provided in this section, a general building contractor is a contractor whose principal contracting business is in connection with any structure built, being built, or to be built, for the support, shelter, and enclosure of persons, animals, chattels, or movable property of any kind, requiring in its construction the use of at least two unrelated building trades or crafts, or to do or superintend the whole or any part thereof.

This does not include anyone who merely furnishes materials or supplies under Section 7045 without fabricating them into, or consuming them in the performance of the work of the general building contractor.

(b) A general building contractor may take a prime contract or a subcontract for a framing or carpentry project. However, a general building contractor shall not take a prime contract for any project involving trades other than framing or carpentry unless the prime contract requires at least two unrelated building trades or crafts other than framing or carpentry, or unless the general building contractor holds the appropriate specialty license or subcontracts with an appropriately licensed specialty contractor to perform the work. A general building contractor shall not take a subcontract involving trades other than framing or carpentry, unless the subcontract requires at least two unrelated trades or crafts other than framing or carpentry, or unless the general building contractor holds the required specialty license. The general building contractor may not count framing or carpentry in calculating the two unrelated trades necessary in order for the general building contractor to be able to take a prime contract or subcontract for a project involving other trades.

(c) No general building contractor shall contract for any project that includes the “C-16” Fire Protection classification as provided for in Section 7026.12 or the “C-57” Well Drilling classification as provided for in Section 13750.5 of the Water Code, unless the general building contractor holds the specialty license, or subcontracts with the appropriately licensed specialty contractor.

SEC. 5. Section 7155.5 of the Business and Professions Code is amended to read:

7155.5. Violations of any provisions of this chapter by a home improvement salesperson, likewise constitutes a cause for disciplinary action against the contractor, whether or not he or she

had knowledge of or participated in the act or omission constituting violations of this chapter.

SEC. 6. Section 7156 of the Business and Professions Code is amended to read:

7156. It shall be a misdemeanor and a cause for disciplinary action to commit any of the following acts:

(a) For any salesperson to fail to account for or to remit to his or her employing contractor any payment received in connection with any home improvement transaction or any other transaction involving a work of improvement.

(b) For any person to use a contract form in connection with any home improvement transaction or any other transaction involving a work of improvement if the form fails to disclose the name of the contractor principal by whom he or she is employed.

SEC. 7. Section 7157 of the Business and Professions Code is amended to read:

7157. (a) Except as otherwise provided in subdivision (b), as a part of or in connection with the inducement to enter into any home improvement contract or other contract, which may be performed by a contractor, no person may promise or offer to pay, credit, or allow to any owner, compensation or reward for the procurement or placing of home improvement business with others.

(b) A contractor or his or her agent or salesperson may give tangible items to prospective customers for advertising or sales promotion purposes where the gift is not conditioned upon obtaining a contract for home improvement work if the gift does not exceed a value of five dollars ($5) and only one such gift is given in connection with any one transaction.

(c) No salesperson or contractor's agent may accept any compensation of any kind, for or on account of a home improvement transaction, or any other transaction involving a work of improvement, from any person other than the contractor whom he or she represents with respect to the transaction, nor shall the salesperson or agent make any payment to any person other than his or her employer on account of the sales transaction.

(d) No contractor shall pay, credit, or allow any consideration or compensation of any kind to any other contractor or salesperson other than a licensee for or on account of the performance of any work of improvement or services, including, but not limited to, home improvement work or services, except: (1) where the person to or from whom the consideration is to be paid is not subject to or is exempted from the licensing requirements of this chapter, or (2) where the transaction is not subject to the requirements of this chapter.

As used in this section "owners" shall also mean "tenant."

Commission of any act prohibited by this section is a misdemeanor and constitutes a cause for disciplinary action.

SEC. 8. Section 7159 of the Business and Professions Code is amended to read:

7159. This section applies only to home improvement contracts, as defined in Section 7151.2, between a contractor, whether a general contractor or a specialty contractor, who is licensed or subject to be licensed pursuant to this chapter with regard to the transaction and who contracts with an owner or tenant for work upon a residential building or structure, or upon land adjacent thereto, for proposed repairing, remodeling, altering, converting, modernizing, or adding to the residential building or structure or land adjacent thereto, and where the aggregate contract price specified in one or more improvement contracts, including all labor, services, and materials to be furnished by the contractor, exceeds five hundred dollars ($500).

Every home improvement contract and every contract, the primary purpose of which is the construction of a swimming pool, is subject to this section. Every contract and any changes in the contract subject to this section shall be evidenced by a writing and shall be signed by all the parties to the contract. The writing shall contain all of the following:

(a) The name, address, and license number of the contractor, and the name and registration number of any salesperson who solicited or negotiated the contract.

(b) The approximate dates when the work will begin and on which all construction is to be completed.

(c) A plan and scale drawing showing the shape, size, dimensions, and construction and equipment specifications for a swimming pool and for other home improvements, a description of the work to be done and description of the materials to be used and the equipment to be used or installed, and the agreed consideration for the work.

(d) If the payment schedule contained in the contract provides for a downpayment to be paid to the contractor by the owner or the tenant before the commencement of work, the downpayment may not exceed two hundred dollars ($200) or 2 percent of the contract price for swimming pools, or one thousand dollars ($1,000) or 10 percent of the contract price for other home improvements, excluding finance charges, whichever is less.

(e) A schedule of payments showing the amount of each payment as a sum in dollars and cents. In no event may the payment schedule provide for the contractor to receive, nor may the contractor actually receive, payments in excess of 100 percent of the value of the work performed on the project at any time, excluding finance charges, except that the contractor may receive an initial downpayment authorized by subdivision (d). With respect to a swimming pool contract, the final payment may be made at the completion of the final plastering phase of construction, provided that any installation or construction of equipment, decking, or fencing required by the contract is also completed. A failure by the contractor without lawful excuse to substantially commence work within 20 days of the

approximate date specified in the contract when work will begin shall postpone the next succeeding payment to the contractor for that period of time equivalent to the time between when substantial commencement was to have occurred and when it did occur. The schedule of payments shall be stated in dollars and cents, and shall be specifically referenced to the amount of work or services to be performed and to any materials and equipment to be supplied. With respect to a contract that provides for a schedule of monthly payments to be made by the owner or tenant and for a schedule of payments to be disbursed to the contractor by a person or entity to whom the contractor intends to assign the right to receive the owner's or tenant's monthly payments, the payments referred to in this subdivision mean the payments to be disbursed by the assignee and not those payments to be made by the owner or tenant.

(f) A statement that, upon satisfactory payment being made for any portion of the work performed, the contractor shall, prior to any further payment being made, furnish to the person contracting for the home improvement or swimming pool a full and unconditional release from any claim or mechanic's lien pursuant to Section 3114 of the Civil Code for that portion of the work for which payment has been made.

(g) The requirements set forth in subdivisions (d), (e), and (f) do not apply when the contract provides for the contractor to furnish a performance and payment bond, lien and completion bond, bond equivalent, or joint control approved by the registrar covering full performance and completion of the contract and the bonds or joint control is or are furnished by the contractor, or when the parties agree for full payment to be made upon or for a schedule of payments to commence after satisfactory completion of the project. The contract shall contain, in close proximity to the signatures of the owner and contractor, a notice in at least 10-point type stating that the owner or tenant has the right to require the contractor to have a performance and payment bond.

(h) No extra or change-order work may be required to be performed without prior written authorization of the person contracting for the construction of the home improvement or swimming pool. No change-order is enforceable against the person contracting for home improvement work or swimming pool construction unless it clearly sets forth the scope of work encompassed by the change-order and the price to be charged for the changes. Any change-order forms for changes or extra work shall be incorporated in, and become a part of, the contract. Failure to comply with the requirements of this subdivision does not preclude the recovery of compensation for work performed based upon quasi-contract, quantum meruit, restitution, or other similar legal or equitable remedies designed to prevent unjust enrichment.

(i) If the contract provides for a payment of a salesperson's commission out of the contract price, that payment shall be made on

a pro rata basis in proportion to the schedule of payments made to the contractor by the disbursing party in accordance with subdivision (e).

(j) The language of the notice required pursuant to Section 7018.5.

(k) What constitutes substantial commencement of work pursuant to the contract.

(*l*) A notice that failure by the contractor without lawful excuse to substantially commence work within 20 days from the approximate date specified in the contract when work will begin is a violation of the Contractors' State License Law.

(m) If the contract provides for a contractor to furnish joint control, the contractor shall not have any financial or other interest in the joint control.

A failure by the contractor without lawful excuse to substantially commence work within 20 days from the approximate date specified in the contract when work will begin is a violation of this section.

This section does not prohibit the parties to a home improvement contract from agreeing to a contract or account subject to Chapter 1 (commencing with Section 1801) of Title 2 of Part 4 of Division 3 of the Civil Code.

The writing may also contain other matters agreed to by the parties to the contract.

The writing shall be legible and shall be in a form that clearly describes any other document that is to be incorporated into the contract. Before any work is done, the owner shall be furnished a copy of the written agreement, signed by the contractor.

For purposes of this section, the board shall, by regulation, determine what constitutes "without lawful excuse."

The provisions of this section are not exclusive and do not relieve the contractor or any contract subject to it from compliance with all other applicable provisions of law.

A violation of this section by a licensee, or a person subject to be licensed, under this chapter, or by his or her agent or salesperson, is a misdemeanor punishable by a fine of not less than one hundred dollars ($100) nor more than five thousand dollars ($5,000), or by imprisonment in the county jail not exceeding one year, or by both that fine and imprisonment.

(n) Any person who violates this section as part of a plan or scheme to defraud an owner of a residential or nonresidential structure, including a mobilehome or manufactured home, in connection with the offer or performance of repairs to the structure for damage caused by a natural disaster, shall be ordered by the court to make full restitution to the victim based on the person's ability to pay, as defined in subdivision (e) of Section 1203.1b of the Penal Code. In addition to full restitution, and imprisonment authorized by this section, the court may impose a fine of not less than five hundred dollars ($500) nor more than twenty-five thousand dollars ($25,000), based upon the defendant's ability to pay. This subdivision applies to

natural disasters for which a state of emergency is proclaimed by the Governor pursuant to Section 8625 of the Government Code or for which an emergency or major disaster is declared by the President of the United States.

SEC. 9. (a) It is the intent of the Legislature to amend Section 7057 of the Business and Professions Code in order to modify the holdings in Home Depot, U.S.A., Inc. v. Contractors' State License Bd., 41 Cal. App. 4th 1592, and Hazard, Jr., Enterprises, Inc. v. Insurance Co. of the West, 52 Cal. App. 4th 1088, to the extent the courts' holdings, or the courts' statutory construction of Section 7057 of the Business and Professions Code, are inconsistent with this act.

(b) The limitations applicable to general building contractors performing in the role of specified specialty building contractors for which other standards and criteria have been established, are necessary to serve as a means of protecting the public against contractors who have not demonstrated competence in specified specialty aspects of work for which a specialty license is required and as a means of facilitating the selection and provision of contracting services by and for the public that provides recognition to those persons or entities that have demonstrated experience, competence, and appropriate qualifications in those specialties specified in Section 7057 of the Business and Professions Code. In addition, experience has shown that consumers need and deserve to be protected against work being performed by contractors not licensed in specialty areas, and that the majority of consumer abuses occur and the focus of enforcement is needed most in these areas.

(c) The Legislature finds and declares that the administrative regulation adopted by the Contractors' State License Board as subdivision (b) of Section 834 of Title 16 of the California Code of Regulations had, for over four decades, served the public good by prohibiting general building contractors from undertaking certain projects in aspects of construction work in which specialty licenses had been established, until that regulation was ruled invalid as a result of the Home Depot and Hazard cases. It is the intent of the Legislature by enacting this act to statutorily establish the standard promulgated as subdivision (b) of Section 834 of Title 16 of the California Code of Regulations, with changes incorporated in this enactment, on the basis that the experience of license enforcement has demonstrated that the majority of consumer abuses occur and the focus of enforcement is most needed in smaller jobs involving one or two specialty trades that typically comprise service or repair functions and home improvement jobs. The Legislature also reiterates its previously stated intent that the Contractors' State License Law should be administered to "promote and protect the interests of consumers as well as law-abiding competitive licensed contractors" (Section 34.5 as contained in Chapter 1013 of the Statutes of 1979).

SEC. 10. The Legislature finds and declares that the program of furnishing opinions of industry experts on the cause or basis of a condition that has produced a consumer complaint arising from a contractor's alleged failure to comply with the license law, and on the cost to correct that condition, was established in 1987 to provide the parties to those disputes with an opinion of a disinterested professional to facilitate the resolution of those disputes quickly and inexpensively. While generically this is an expert witness program, it is unique and focused on the particular industry practices and problems in contracting, and the provisions made by this act are designed to improve and facilitate its availability, and the Legislature does not intend to provide for, or to provide any precedent for, any expert witness program in any other context or any other industry, trade, or profession.

SEC. 11. The Contractors' State License Board shall, before January 1, 1999, consult with representatives of the industry it regulates, with consumer groups, and with other parties that have demonstrated an interest in the operation of the program of licensing contractors, and evolve in conjunction with those discussions, a potential administrative regulation or regulations that the board believes would best serve the interests of the public, and the affected parties for the definition, administration, governance, and implementation of a program such as that provided in Section 7019.1 of the Business and Professions Code, as that program might be continued after July 1, 2000.

The board shall also consult with the Director of Consumer Affairs, with whom the board is required to consult in the adoption of administrative regulations pursuant to Section 313.1 of the Business and Professions Code, to obtain the director's input into the formulation of the potential regulations to be evolved pursuant to this section.

SEC. 12. The Contractors' State License Board shall identify those "C" specialty license classifications that present a risk to the health, safety, and general welfare of the public, and shall report to the Legislature and the Department of Consumer Affairs by October 1, 1998, which specialty licensing contractor classifications may be appropriate for consolidation, redefinition, or elimination. Not later than July 1, 1999, the board shall, in consideration of any response of the Legislature and the Department of Consumer Affairs to the report, take regulatory action to implement the recommendations of the report.

SEC. 13. The Contractors' State License Board shall report to the Legislature and the Department of Consumer Affairs by October 1, 1998, on which specialty licensing contractor classifications, such as asbestos contractors or contractors involved in the removal or remediation of hazardous substances, are appropriate for consolidation, redefinition, or elimination. The board shall also report

on whether a separate classification or certification of home improvement contractors is appropriate.

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## CHAPTER 813

An act to amend Sections 7000.5, 7011, 7155.5, 7156, 7157, and 7159 of the Business and Professions Code, relating to contractors.

[Approved by Governor October 8, 1997. Filed with Secretary of State October 9, 1997.]

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

SECTION 1. Section 7000.5 of the Business and Professions Code is amended to read:

7000.5. (a) There is in the Department of Consumer Affairs a Contractors' State License Board, which consists of 13 members.

(b) The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473). However, the review of this board by the department shall be limited to only those unresolved issues identified by the Joint Legislative Sunset Review Committee.

(c) This section shall become inoperative on July 1, 2000, and, as of January 1, 2001, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2001, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 2. Section 7011 of the Business and Professions Code is amended to read:

7011. The board by and with the approval of the director shall appoint a registrar of contractors and fix his or her compensation.

The registrar shall be the executive officer and secretary of the board and shall carry out all of the administrative duties as provided in this chapter and as delegated to him or her by the board.

For the purpose of administration of this chapter, there may be appointed a deputy registrar, a chief reviewing and hearing officer and, subject to Section 159.5, other assistants and subordinates as may be necessary.

Appointments shall be made in accordance with the provisions of civil service laws.

This section shall become inoperative on July 1, 2000, and, as of January 1, 2001, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2001, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 3. Section 7155.5 of the Business and Professions Code is amended to read:

7155.5. Violations of any provisions of this chapter by a home improvement salesperson, likewise constitutes a cause for

disciplinary action against the contractor, whether or not he or she had knowledge of or participated in the act or omission constituting violations of this chapter.

SEC. 4. Section 7156 of the Business and Professions Code is amended to read:

7156. It shall be a misdemeanor and a cause for disciplinary action to commit any of the following acts:

(a) For any salesperson to fail to account for or to remit to his or her employing contractor any payment received in connection with any home improvement transaction or any other transaction involving a work of improvement.

(b) For any person to use a contract form in connection with any home improvement transaction or any other transaction involving a work of improvement if the form fails to disclose the name of the contractor principal by whom he or she is employed.

SEC. 5. Section 7157 of the Business and Professions Code is amended to read:

7157. (a) Except as otherwise provided in subdivision (b), as a part of or in connection with the inducement to enter into any home improvement contract or other contract, which may be performed by a contractor, no person may promise or offer to pay, credit, or allow to any owner, compensation or reward for the procurement or placing of home improvement business with others.

(b) A contractor or his or her agent or salesperson may give tangible items to prospective customers for advertising or sales promotion purposes where the gift is not conditioned upon obtaining a contract for home improvement work if the gift does not exceed a value of five dollars ($5) and only one such gift is given in connection with any one transaction.

(c) No salesperson or contractor's agent may accept any compensation of any kind, for or on account of a home improvement transaction, or any other transaction involving a work of improvement, from any person other than the contractor whom he or she represents with respect to the transaction, nor shall the salesperson or agent make any payment to any person other than his or her employer on account of the sales transaction.

(d) No contractor shall pay, credit, or allow any consideration or compensation of any kind to any other contractor or salesperson other than a licensee for or on account of the performance of any work of improvement or services, including, but not limited to, home improvement work or services, except: (1) where the person to or from whom the consideration is to be paid is not subject to or is exempted from the licensing requirements of this chapter, or (2) where the transaction is not subject to the requirements of this chapter.

As used in this section "owners" shall also mean "tenant."

Commission of any act prohibited by this section is a misdemeanor and constitutes a cause for disciplinary action.

SEC. 6. Section 7159 of the Business and Professions Code is amended to read:

7159. This section applies only to home improvement contracts, as defined in Section 7151.2, between a contractor, whether a general contractor or a specialty contractor, who is licensed or subject to be licensed pursuant to this chapter with regard to the transaction and who contracts with an owner or tenant for work upon a residential building or structure, or upon land adjacent thereto, for proposed repairing, remodeling, altering, converting, modernizing, or adding to the residential building or structure or land adjacent thereto, and where the aggregate contract price specified in one or more improvement contracts, including all labor, services, and materials to be furnished by the contractor, exceeds five hundred dollars ($500).

Every home improvement contract and every contract, the primary purpose of which is the construction of a swimming pool, is subject to this section. Every contract and any changes in the contract subject to this section shall be evidenced by a writing and shall be signed by all the parties to the contract. The writing shall contain all of the following:

(a) The name, address, and license number of the contractor, and the name and registration number of any salesperson who solicited or negotiated the contract.

(b) The approximate dates when the work will begin and on which all construction is to be completed.

(c) A plan and scale drawing showing the shape, size, dimensions, and construction and equipment specifications for a swimming pool and for other home improvements, a description of the work to be done and description of the materials to be used and the equipment to be used or installed, and the agreed consideration for the work.

(d) If the payment schedule contained in the contract provides for a downpayment to be paid to the contractor by the owner or the tenant before the commencement of work, the downpayment may not exceed two hundred dollars ($200) or 2 percent of the contract price for swimming pools, or one thousand dollars ($1,000) or 10 percent of the contract price for other home improvements, excluding finance charges, whichever is less.

(e) A schedule of payments showing the amount of each payment as a sum in dollars and cents. In no event may the payment schedule provide for the contractor to receive, nor may the contractor actually receive, payments in excess of 100 percent of the value of the work performed on the project at any time, excluding finance charges, except that the contractor may receive an initial downpayment authorized by subdivision (d). With respect to a swimming pool contract, the final payment may be made at the completion of the final plastering phase of construction, provided that any installation or construction of equipment, decking, or fencing required by the contract is also completed. A failure by the contractor without lawful excuse to substantially commence work within 20 days of the

approximate date specified in the contract when work will begin shall postpone the next succeeding payment to the contractor for that period of time equivalent to the time between when substantial commencement was to have occurred and when it did occur. The schedule of payments shall be stated in dollars and cents, and shall be specifically referenced to the amount of work or services to be performed and to any materials and equipment to be supplied. With respect to a contract that provides for a schedule of monthly payments to be made by the owner or tenant and for a schedule of payments to be disbursed to the contractor by a person or entity to whom the contractor intends to assign the right to receive the owner's or tenant's monthly payments, the payments referred to in this subdivision mean the payments to be disbursed by the assignee and not those payments to be made by the owner or tenant.

(f) A statement that, upon satisfactory payment being made for any portion of the work performed, the contractor shall, prior to any further payment being made, furnish to the person contracting for the home improvement or swimming pool a full and unconditional release from any claim or mechanic's lien pursuant to Section 3114 of the Civil Code for that portion of the work for which payment has been made.

(g) The requirements set forth in subdivisions (d), (e), and (f) do not apply when the contract provides for the contractor to furnish a performance and payment bond, lien and completion bond, bond equivalent, or joint control approved by the registrar covering full performance and completion of the contract and the bonds or joint control is or are furnished by the contractor, or when the parties agree for full payment to be made upon or for a schedule of payments to commence after satisfactory completion of the project. The contract shall contain, in close proximity to the signatures of the owner and contractor, a notice in at least 10-point type stating that the owner or tenant has the right to require the contractor to have a performance and payment bond.

(h) No extra or change-order work may be required to be performed without prior written authorization of the person contracting for the construction of the home improvement or swimming pool. No change-order is enforceable against the person contracting for home improvement work or swimming pool construction unless it clearly sets forth the scope of work encompassed by the change-order and the price to be charged for the changes. Any change-order forms for changes or extra work shall be incorporated in, and become a part of, the contract. Failure to comply with the requirements of this subdivision does not preclude the recovery of compensation for work performed based upon quasi-contract, quantum meruit, restitution, or other similar legal or equitable remedies designed to prevent unjust enrichment.

(i) If the contract provides for a payment of a salesperson's commission out of the contract price, that payment shall be made on

a pro rata basis in proportion to the schedule of payments made to the contractor by the disbursing party in accordance with subdivision (e).

(j) The language of the notice required pursuant to Section 7018.5.

(k) What constitutes substantial commencement of work pursuant to the contract.

(*l*) A notice that failure by the contractor without lawful excuse to substantially commence work within 20 days from the approximate date specified in the contract when work will begin is a violation of the Contractors' State License Law.

(m) If the contract provides for a contractor to furnish joint control, the contractor shall not have any financial or other interest in the joint control.

A failure by the contractor without lawful excuse to substantially commence work within 20 days from the approximate date specified in the contract when work will begin is a violation of this section.

This section does not prohibit the parties to a home improvement contract from agreeing to a contract or account subject to Chapter 1 (commencing with Section 1801) of Title 2 of Part 4 of Division 3 of the Civil Code.

The writing may also contain other matters agreed to by the parties to the contract.

The writing shall be legible and shall be in a form that clearly describes any other document that is to be incorporated into the contract. Before any work is done, the owner shall be furnished a copy of the written agreement, signed by the contractor.

For purposes of this section, the board shall, by regulation, determine what constitutes "without lawful excuse."

The provisions of this section are not exclusive and do not relieve the contractor or any contract subject to it from compliance with all other applicable provisions of law.

A violation of this section by a licensee, or a person subject to be licensed, under this chapter, or by his or her agent or salesperson, is a misdemeanor punishable by a fine of not less than one hundred dollars ($100) nor more than five thousand dollars ($5,000), or by imprisonment in the county jail not exceeding one year, or by both that fine and imprisonment.

(n) Any person who violates this section as part of a plan or scheme to defraud an owner of a residential or nonresidential structure, including a mobilehome or manufactured home, in connection with the offer or performance of repairs to the structure for damage caused by a natural disaster, shall be ordered by the court to make full restitution to the victim based on the person's ability to pay, as defined in subdivision (e) of Section 1203.1b of the Penal Code. In addition to full restitution, and imprisonment authorized by this section, the court may impose a fine of not less than five hundred dollars ($500) nor more than twenty-five thousand dollars ($25,000), based upon the defendant's ability to pay. This subdivision applies to

natural disasters for which a state of emergency is proclaimed by the Governor pursuant to Section 8625 of the Government Code or for which an emergency or major disaster is declared by the President of the United States.

SEC. 7. The Contractors' State License Board shall report to the Legislature and the Department of Consumer Affairs by October 1, 1998, on which specialty licensing contractor classifications, such as asbestos contractors or contractors involved in the removal or remediation of hazardous substances, are appropriate for consolidation, redefinition, or elimination. The board shall also report on whether a separate classification or certification of home improvement contractors is appropriate.

SEC. 8. This act shall not become operative unless Senate Bill 857 of the 1997–98 Regular Session is also enacted and becomes operative.

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## CHAPTER 814

An act to amend Section 51010.5 of, to add Sections 51017.1 and 51017.2 to, and to repeal and add Section 51017 of, the Government Code, to amend Sections 25298.5 and 116375 of, to add Section 100886 to, and to add Article 12 (commencing with Section 25299.97) and Article 13 (commencing with Section 25299.99) to Chapter 6.75 of Division 20 of, and to add Article 7.5 (commencing with Section 116610) to Chapter 4 of Part 12 of Division 104 of, the Health and Safety Code, and to add Sections 13272.1 and 13274 to, the Water Code, relating to environmental protection, and making an appropriation therefor.

[Approved by Governor October 8, 1997. Filed with
Secretary of State October 9, 1997.]

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

SECTION 1. Section 51010.5 of the Government Code is amended to read:

51010.5. As used in this chapter, the following definitions apply:

(a) "Pipeline" includes every intrastate pipeline used for the transportation of hazardous liquid substances or highly volatile liquid substances, including a common carrier pipeline, and all piping containing those substances located within a refined products bulk loading facility which is owned by a common carrier and is served by a pipeline of that common carrier, and the common carrier owns and serves by pipeline at least five such facilities in the state. "Pipeline" does not include the following:

(1) An interstate pipeline subject to Part 195 of Title 49 of the Code of Federal Regulations.

(2) A pipeline for the transportation of a hazardous liquid substance in a gaseous state.

(3) A pipeline for the transportation of crude oil that operates by gravity or at a stress level of 20 percent or less of the specified minimum yield strength of the pipe.

(4) Transportation of petroleum in onshore gathering lines located in rural areas.

(5) A pipeline for the transportation of a hazardous liquid substance offshore located upstream from the outlet flange of each facility on the Outer Continental Shelf where hydrocarbons are produced or where produced hydrocarbons are first separated, dehydrated, or otherwise processed, whichever facility is farther downstream.

(6) Transportation of a hazardous liquid by a flow line.

(7) A pipeline for the transportation of a hazardous liquid substance through an onshore production, refining, or manufacturing facility, including a storage or inplant piping system associated with that facility.

(8) Transportation of a hazardous liquid substance by vessel, aircraft, tank truck, tank car, or other vehicle or terminal facilities used exclusively to transfer hazardous liquids between those modes of transportation.

(b) "Flow line" means a pipeline which transports hazardous liquid substances from the well head to a treating facility or production storage facility.

(c) "Hydrostatic testing" means the application of internal pressure above the normal or maximum operating pressure to a segment of pipeline, under no-flow conditions for a fixed period of time, utilizing a liquid test medium.

(d) "Local agency" means a city, county, or fire protection district.

(e) "Rural area" means a location which lies outside the limits of any incorporated or unincorporated city or city and county, or other residential or commercial area, such as a subdivision, a business, a shopping center, or a community development.

(f) "Gathering line" means a pipeline eight inches or less in nominal diameter that transports petroleum from a production facility.

(g) "Production facility" means piping or equipment used in the production, extraction, recovery, lifting, stabilization, separation, or treatment of petroleum or associated storage or measurement. (To be a production facility under this definition, piping or equipment must be used in the process of extracting petroleum from the ground and transporting it by pipeline.)

(h) "Public drinking water well" means a wellhead that provides drinking water to a public water system as defined in Section 116275 of the Health and Safety Code, that is regulated by the State

Department of Health Services and that is subject to Section 116455 of the Health and Safety Code.

(i) "GIS mapping system" means a geographical information system that will collect, store, retrieve, analyze, and display environmental geographical data in a data base that is accessible to the public.

(j) "Motor vehicle fuel" includes gasoline, natural gasoline, blends of gasoline and alcohol, or gasoline and oxygenates, and any inflammable liquid, by whatever name the liquid may be known or sold, which is used or is usable for propelling motor vehicles operated by the explosion type engine. It does not include kerosene, liquefied petroleum gas, or natural gas in liquid or gaseous form.

(k) "Oxygenate" means an organic compound containing oxygen that has been approved by the United States Environmental Protection Agency as a gasoline additive to meet the requirements for an "oxygenated fuel" pursuant to Section 7545 of Title 42 of the United States Code.

SEC. 2. Section 51017 of the Government Code is repealed.

SEC. 3. Section 51017 is added to the Government Code, to read:

51017. (a) The State Fire Marshal shall develop a comprehensive data base of pipeline information that can be utilized for emergency response and program operational purposes. The data base shall include information on pipeline location, age, reported leak incidences, and inspection history, and shall have the capability of mapping pipeline locations throughout the state. The data collection format shall be compatible with any pipeline mapping project implemented by the United States Department of Transportation's Office of Pipeline Safety and shall be compatible with GIS mapping and data management required by Article 12 (commencing with Section 25299.97) of Chapter 6.75 of Division 20 of the Health and Safety Code.

(b) The sum of four hundred sixty-nine thousand dollars ($469,000) is hereby appropriated from the California Hazardous Liquid Pipeline Safety Fund to the State Fire Marshal for the purposes of subdivision (a).

SEC. 4. Section 51017.1 is added to the Government Code, to read:

51017.1. (a) Utilizing GIS-based location information furnished by the State Department of Health Services and the State Water Resources Control Board, at least once every two years the State Fire Marshal shall determine the identity of each pipeline or pipeline segment that is regulated by the State Fire Marshal pursuant to this chapter that transports petroleum product when that pipeline is located within 1,000 feet of a public drinking water well.

(b) With assistance from the State Department of Health Services and the State Water Resources Control Board, the State Fire Marshal shall notify the operator of the pipelines identified in subdivision (a) of the following information:

(1) That the specific pipeline or pipeline segment has been identified as being located within 1,000 feet of a public drinking water well.

(2) The name of the water purveyor and the location of the public drinking water well affected. With advice from the GIS mapping advisory committee, created pursuant to subdivision (b) of Section 25299.97 of the Health and Safety Code, the identification of the pipelines and notification of pipeline owners by the State Fire Marshal pursuant to subdivision (a) and this subdivision shall begin once the GIS mapping system created by Section 25299.97 of the Health and Safety Code is able to provide accurate and useful information on pipeline and wellhead locations.

(c) Each pipeline operator notified pursuant to subdivision (b) shall prepare a pipeline wellhead protection plan as required by Section 51017.2 and submit the plan to the State Fire Marshal within 180 days from the date of either receiving the notification specified in subdivision (b), or adoption of regulations by the State Fire Marshal pursuant to Section 51017.2, whichever is later.

(d) With the advice of the State Department of Health Services, the State Water Resources Control Board, appropriate California regional water quality controls boards, and local water purveyors, the State Fire Marshal shall review each wellhead protection plan submitted by a pipeline operator, and approve those plans that meet the criteria of the regulations adopted by the State Fire Marshal pursuant to Section 51017.2. The State Fire Marshal shall have discretion to allow a wellhead protection plan to address multiple wellheads where the conditions creating the risk to the wellheads are substantially similar. The pipeline operator shall implement the wellhead protection plan within 180 days from the date of receiving approval from the State Fire Marshal.

(e) Each pipeline operator having a wellhead protection plan approved by the State Fire Marshal pursuant to subdivision (d) shall evaluate that plan at least once every five years to ensure that the plan is in compliance with the current regulations established by the State Fire Marshal pursuant to Section 51017.2. The pipeline operator shall provide either written documentation to the State Fire Marshal that the previously approved wellhead protection plan has been evaluated and that no changes are warranted, or submit a new wellhead protection plan to remain in compliance with existing regulations or to meet the requirements of regulations adopted since the plan was approved.

(f) The pipeline operator subject to subdivision (c) may petition the State Fire Marshal in writing for an exemption from the requirements of subdivision (c). With advice from the State Water Resources Control Board, the State Department of Health Services, the California regional water quality control boards, and local water purveyors, the State Fire Marshal may approve the exemption if the petition demonstrates that the pipeline either does not transport

motor vehicle fuel, or does not pose a significant threat to the public drinking water well based upon, but not limited to, the following criteria:

(1) Pipeline parameters, such as operation pressure, operating temperature, age, design, fabrication materials, construction, corrosive nature of the surrounding soil, cathodic protection, and feasibility of internal inspection or evaluation tools (smart pigs).

(2) Hydrogeologic parameters, such as soil permeability, direction and velocity of groundwater flow, aquifer location or depth, and hydrogeologic barriers or conduits.

(3) Water well parameters, such as depth of well and well construction.

(4) The nature of the fuel and its ability to migrate to public drinking water wells.

(5) The impact of human activity that may elevate or reduce the risk to the drinking water well.

SEC. 5. Section 51017.2 is added to the Government Code, to read:

51017.2. (a) With advice from the Pipeline Safety Advisory Committee, the State Water Resources Control Board, the California regional water quality control boards, and local water purveyors, the State Fire Marshal shall adopt regulations for wellhead protection plans that provide guidelines to be used by the pipeline operator as specified in Section 51017.1 to protect the public drinking water well from contamination should a pipeline rupture or leak pose a significant threat to a public drinking water well, taking into account the nature of the fuel and its ability to migrate to a public drinking water well. The regulations adopted by the State Fire Marshal shall require each plan to contain adequate and effective measures that are technologically feasible, practical, and operationally sound that protect public drinking water wells. At a minimum, the wellhead protection plan shall contain the following:

(1) Operational activities that provide the pipeline operator with sufficient information to adequately ensure the integrity of the pipeline. These may include internal inspection or evaluation tools (smart pigs), substructure excavation (potholing), well monitoring, additional or more frequent pressure tests, cathodic protection surveys or visual inspections, or other technologies as appropriate.

(2) Response measures that will enhance the pipeline operator's response to an emergency, such as a pipeline rupture, fire, earthquake, or flood. These measures may include activities, such as additional training for operator staff or improved coordination with emergency response agencies.

(b) At least once every five years, the State Fire Marshal, with the advice of the Pipeline Safety Advisory Committee, the State Water Resources Control Board, the California regional water quality control boards, and local water purveyors, shall review the regulations adopted pursuant to subdivision (a) to determine if new

measures that have been proven to be technologically feasible, practical, and operationally sound should be included in the regulations. The State Fire Marshal shall adopt new regulations if such new measures are identified.

SEC. 6. Section 25298.5 of the Health and Safety Code is amended to read:

25298.5. The analysis of any material that is required to demonstrate compliance with this chapter or Chapter 6.75 (commencing with Section 25299.10) shall be performed by a laboratory accredited by the department pursuant to Article 3 (commencing with Section 100825) of Chapter 4 of Part 1 of Division 101.

SEC. 7. Article 12 (commencing with Section 25299.97) is added to Chapter 6.75 of Division 20 of the Health and Safety Code, to read:

Article 12. Drinking Water Well Protection

25299.97. (a) For the purposes of this article, the following definitions shall apply:

(1) "Public drinking water well" means a wellhead that provides drinking water to a public water system, as that term is defined in Section 116275, that is regulated by the State Department of Health Services and that is subject to Section 116455.

(2) "MTBE" means methyl tertiary-butyl ether.

(3) "GIS mapping system" means a geographic information system that collects, stores, retrieves, analyzes, and displays environmental geographic data in a data base that is accessible to the public.

(4) "Motor vehicle fuel" includes gasoline, natural gasoline, blends of gasoline and alcohol or gasoline and oxygenates and any inflammable liquid, by whatever name the liquid may be known or sold, which is used or usable for propelling motor vehicles operated by the explosion type engine. It does not include kerosine, liquefied petroleum gas, or natural gas, in liquid or gaseous form.

(5) "Oxygenated motor vehicle fuel" is motor vehicle fuel, as defined in paragraph (4), that meets the federal definition for "Oxygenated Fuel" as defined in Section 7545(m) of Title 42 of the United States Code.

(6) "Oxygenate" means an organic compound containing oxygen that has been approved by the United States Environmental Protection Agency as a gasoline additive to meet the requirements for an "oxygenated fuel" pursuant to Section 7545 of Title 42 of the United States Code.

(b) The State Water Resources Control Board shall upgrade the data base created by Section 25299.39.1. This upgrade shall include the establishment of a statewide GIS mapping system as described in this section only upon an appropriation by the Legislature for this purpose.

(c) (1) For purposes of subdivision (b), the board shall create a GIS Mapping and Data Management Advisory Committee. The committee shall give the board advice on location standards, protocols, metadata, and the appropriate data to expand the data base to create a cost-effective GIS mapping system that will provide the appropriate information to allow agencies to better protect public drinking water wells and, if feasible, nearby aquifers that are reasonably expected to be used as drinking water, from contamination by motor vehicle fuel from underground storage tanks and intra- and interstate pipelines that are regulated by the State Fire Marshal pursuant to the California Pipeline Safety Act of 1981, Chapter 5.5 (commencing with Section 51010.5) of Part 1 of Division 1 of Title 5 of the Government Code.

(2) The advisory committee shall include, at a minimum, members from appropriate state and local agencies, affected industry and business, the water agencies that provide drinking water in Santa Monica, the water agencies that provide drinking water in the Santa Clara Valley, nonprofit environmental groups dedicated to the conservation and preservation of natural resources, and underground storage tank owners.

(d) (1) The board shall create two pilot projects, the Santa Monica Groundwater Pilot Project and the Santa Clara Valley Groundwater Pilot Project, which shall terminate on July 1, 1999.

(2) The board shall create the pilot projects with the advice of the advisory committee so as to expedite and prioritize the upgrading of the data base for those regions of the state where groundwater provides, or would be called on in an emergency to provide, a significant portion of the region's drinking water.

(3) The board shall use the pilot projects to define and assess the parameters of the data base, identify data needs, develop opportunities to electronically link data bases and electronic submission of information, offer access to the public via the Internet, streamline existing processes, and work out the details for data management and a GIS mapping system as described in this article.

(4) The pilot projects shall study appropriate modification to public water systems and response times.

(e) To upgrade the data base as required by this section, the board, in consultation with the advisory committee, shall do all of the following:

(1) Coordinate with the Department of Water Resources and the State Department of Health Services to obtain the location of existing drinking water wells and appropriate water resource and quality data to meet the requirements of this article.

(2) Coordinate with local agencies authorized to implement this chapter to obtain the location of all underground storage tanks that store motor vehicle fuel that are within 1,000 feet of a public drinking water well.

(3) Coordinate with local agencies authorized to implement this chapter to add the location of all known releases of motor vehicle fuel from underground storage tanks that are within 1,000 feet of a drinking water well.

(4) Coordinate with the State Fire Marshal to add the location and leak history of all pipelines or segments of pipelines that transport motor vehicle fuel and that are regulated by the State Fire Marshal pursuant to Chapter 5.5 (commencing with Section 51010) of Part 1 of Division 1 of Title 5 of the Government Code that are within 1,000 feet of an existing public drinking water well.

(f) The board may expend up to four hundred thousand dollars ($400,000) from the Underground Storage Tank Cleanup Fund for the purposes set forth in Section 25299.36 to fund the GIS mapping system projects referred to in this section.

(g) On or before July 1, 1999, based upon, among other things, an evaluation of the pilot projects, the board shall report to the Legislature and the Governor on the feasibility and appropriateness of establishing a statewide GIS mapping system as described in this section.

SEC. 8. Article 13 (commencing with Section 25299.99) is added to Chapter 6.75 of Division 20 of the Health and Safety Code, to read:

Article 13. Drinking Water Emergency Response Funding

25299.99. (a) The board may annually expend up to five million dollars ($5,000,000) from the fund for the purposes set forth in Section 25299.36 and may expend no more than one million dollars ($1,000,000) of that amount per affected drinking water supply source to pay a public water system for the cost of treatment of the water supply or of providing alternate drinking water supplies, where a public water system requests funds and the public water system demonstrates that a public drinking water well has been contaminated by an oxygenate and there is substantial evidence that the release occurred from an underground storage tank.

(b) The board shall report annually to the Governor and to the Legislature on any money provided to a public water system pursuant to this section.

(c) The board shall be reimbursed by a public water system that has received funds pursuant to this section, to the extent that the public water system receives payment from any source to cover the costs for which it received funding under this section. The public water system shall aggressively pursue cost recovery from responsible persons and shall, upon recovery, or within five years from the initial payment received, whichever occurs first, reimburse the board for funds received pursuant to this section unless the public water system can demonstrate to the board that, despite all reasonable efforts, recovery from a responsible party is not possible, or that a responsible party cannot be identified.

SEC. 9. Section 100886 is added to the Health and Safety Code, to read:

100886. Any person who operates a laboratory for the purposes specified in Section 25198, 25298.5, 25358.4, or 116390 of this code, or Section 13176 of the Water Code, shall report the full and complete results of all detected contamination and pollutants to the person or entity that submitted the material for testing.

SEC. 10. Section 116375 of the Health and Safety Code is amended to read:

116375. The department shall adopt regulations it determines to be necessary to carry out the purposes of this chapter. The regulations shall include, but not be limited to, the following:

(a) The monitoring of contaminants, including the type of contaminant, frequency and method of sampling and testing, and the reporting of results.

(b) The monitoring of unregulated contaminants for which drinking water standards have not been established by the department. The requirements shall be not less stringent than those adopted pursuant to paragraph (2) of subsection (a) of Section 1445 of the federal Safe Drinking Water Act, as amended (42 U.S.C. Sec. 300j-4 (a)(2)). Until the time that the department adopts regulations regarding the monitoring of unregulated contaminants, the department may, by order, require any public water system that has been shown to contain detectable levels of any unregulated contaminants to conduct periodic water analyses in accordance with conditions specified by the department. The water analyses shall be reported on a quarterly basis unless the department finds that more or less frequent analysis is necessary.

(c) Requirements for the design, operation, and maintenance of public water systems, including, but not limited to, waterworks standards and the control of cross-connections, that the department determines are necessary to obtain, treat, and distribute a reliable and adequate supply of pure, wholesome, potable, and healthy water.

(d) Requirements for treatment, including disinfection of water supplies.

(e) Requirements for the filtration of surface water supplies at least as stringent as regulations promulgated pursuant to subparagraph (C) of paragraph (7) of subsection (b) of Section 1412 of the federal Safe Drinking Water Act, as amended (42 U.S.C. Sec. 300g-1 (b)(7)(C)).

(f) Requirements for notifying the public of the quality of the water delivered to consumers.

(g) Minimum acceptable financial assurances that a public water system shall be required to submit as a demonstration of its capability to provide for the ongoing operation, maintenance, and upgrading of the system, including compliance with monitoring and treatment requirements and contingencies. For privately owned systems not regulated by the Public Utilities Commission, the financial assurance

may be in the form of a trust fund, surety bond, letter of credit, insurance, or other equivalent financial arrangement acceptable to the department.

(h) Program requirements for the conduct of the public water system program by a local health officer under a primacy delegation from the department as set forth in this chapter. The requirements shall include, but not be limited to, the issuance of permits, surveillance and inspections, reporting of monitoring and compliance data, and the taking of enforcement actions.

(i) Methods for determination of the number of persons served by a public water system for drinking water regulatory purposes.

(j) The adoption by the State Department of Health Services, in consultation with the State Water Resources Control Board and representatives from operators of public water systems, of emergency regulations for the uniform, scientific sampling, and analytical testing protocols for oxygenates as defined in subdivision (k) of Section 51010.5 of the Government Code.

SEC. 11. Article 7.5 (commencing with Section 116610) is added to Chapter 4 of Part 12 of Division 104 of the Health and Safety Code, to read:

Article 7.5. MTBE Detection

116610. (a) This article shall be known, and may be cited, as the Local Drinking Water Protection Act.

(b) For purposes of this article, "MTBE" means methyl tertiary-butyl ether.

(c) Commencing January 1, 1998, the State Department of Health Services shall commence the process for adopting a primary drinking water standard for MTBE that complies with the criteria established under Section 116275. The State Department of Health Services shall establish a primary drinking water standard for MTBE on or before July 1, 1999. The State Department of Health Services may, at its discretion, set primary drinking water standards for other oxygenates.

(d) On or before July 1, 1998, the State Department of Health Services shall adopt a secondary drinking water standard that complies with the criteria established under subdivision (d) of Section 116275 and that does not exceed a consumer acceptance level for MTBE.

116612. On or before January 1, 1999, the California Drinking Water and Toxic Enforcement Act Scientific Advisory Panel shall make a recommendation to the Office of Environmental Health Hazard Assessment on whether MTBE should be listed as a carcinogenic or reproductive toxin, as set forth in Section 12000 and following of Title 22 of the California Code of Regulations.

SEC. 12. Section 13272.1 is added to the Water Code, to read:

13272.1. Each regional board shall publish and distribute on a quarterly basis to all public water system operators within the region of the regional board, a list of discharges of MTBE that occurred during the quarter and a list of locations where MTBE was detected in the groundwater within the region of the regional board.

SEC. 13. Section 13274 is added to the Water Code, to read:

13274. (a) Notwithstanding any other provision of law, any public water system regulated by the State Department of Health Services shall have the same legal rights and remedies against a responsible party, when the water supply used by that public water system is contaminated, as those of a private land owner whose groundwater has been contaminated.

(b) For purposes of this section, "responsible party" has the same meaning as defined in Section 25323.5 of the Health and Safety Code.

SEC. 14. This act shall become operative only if Senate Bill 1189 of the 1997–98 Regular Session is also enacted and becomes effective on or before January 1, 1998.

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## CHAPTER 815

An act to add Article 12 (commencing with Section 25299.97) and Article 13 (commencing with Section 25299.99) to Chapter 6.75 of Division 20 of, and to add Article 7.5 (commencing with Section 116610) to Chapter 4 of Part 12 of Division 104 of, the Health and Safety Code, and to add Section 13272.1 to the Water Code, relating to drinking water, and making an appropriation therefor.

[Approved by Governor October 8, 1997. Filed with Secretary of State October 9, 1997.]

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

SECTION 1. Article 12 (commencing with Section 25299.97) is added to Chapter 6.75 of Division 20 of the Health and Safety Code, to read:

### Article 12. Drinking Water Well Protection

25299.97. (a) For the purposes of this article, the following definitions shall apply:

(1) "Public drinking water well" means a wellhead that provides drinking water to a public water system, as that term is defined in Section 116275, that is regulated by the State Department of Health Services and that is subject to Section 116455.

(2) "MTBE" means methyl tertiary-butyl ether.

(3) "GIS mapping system" means a geographic information system that collects, stores, retrieves, analyzes, and displays

environmental geographic data in a data base that is accessible to the public.

(4) "Motor vehicle fuel" includes gasoline, natural gasoline, blends of gasoline and alcohol or gasoline and oxygenates and any inflammable liquid, by whatever name the liquid may be known or sold, which is used or usable for propelling motor vehicles operated by the explosion type engine. It does not include kerosine, liquefied petroleum gas, or natural gas, in liquid or gaseous form.

(5) "Oxygenated motor vehicle fuel" is motor vehicle fuel, as defined in paragraph (4), that meets the federal definition for "Oxygenated Fuel" as defined in Section 7545(m) of Title 42 of the United States Code.

(6) "Oxygenate" means an organic compound containing oxygen that has been approved by the United States Environmental Protection Agency as a gasoline additive to meet the requirements for an "oxygenated fuel" pursuant to Section 7545 of Title 42 of the United States Code.

(b) The State Water Resources Control Board shall upgrade the data base created by Section 25299.39.1. This upgrade shall include the establishment of a statewide GIS mapping system as described in this section only upon an appropriation by the Legislature for this purpose.

(c) (1) For purposes of subdivision (b), the board shall create a GIS Mapping and Data Management Advisory Committee. The committee shall give the board advice on location standards, protocols, metadata, and the appropriate data to expand the data base to create a cost-effective GIS mapping system that will provide the appropriate information to allow agencies to better protect public drinking water wells and, if feasible, nearby aquifers that are reasonably expected to be used as drinking water, from contamination by motor vehicle fuel from underground storage tanks and intra- and interstate pipelines that are regulated by the State Fire Marshal pursuant to the California Pipeline Safety Act of 1981, Chapter 5.5 (commencing with Section 51010.5) of Part 1 of Division 1 of Title 5 of the Government Code.

(2) The advisory committee shall include, at a minimum, members from appropriate state and local agencies, affected industry and business, the water agencies that provide drinking water in Santa Monica, the water agencies that provide drinking water in the Santa Clara Valley, nonprofit environmental groups dedicated to the conservation and preservation of natural resources, and underground storage tank owners.

(d) (1) The board shall create two pilot projects, the Santa Monica Groundwater Pilot Project and the Santa Clara Valley Groundwater Pilot Project, which shall terminate on July 1, 1999.

(2) The board shall create the pilot projects with the advice of the advisory committee so as to expedite and prioritize the upgrading of the data base for those regions of the state where groundwater

provides, or would be called on in an emergency to provide, a significant portion of the region's drinking water.

(3) The board shall use the pilot projects to define and assess the parameters of the data base, identify data needs, develop opportunities to electronically link data bases and electronic submission of information, offer access to the public via the Internet, streamline existing processes, and work out the details for data management and a GIS mapping system as described in this article.

(4) The pilot project shall study appropriate notification to public water systems and response times.

(e) To upgrade the data base as required by this section, the board, in consultation with the advisory committee, shall do all of the following:

(1) Coordinate with the Department of Water Resources and the State Department of Health Services to obtain the location of existing drinking water wells and appropriate water resource and quality data to meet the requirements of this article.

(2) Coordinate with local agencies authorized to implement this chapter to obtain the location of all underground storage tanks that store motor vehicle fuel that are within 1,000 feet of a public drinking water well.

(3) Coordinate with local agencies authorized to implement this chapter to add the location of all known releases of motor vehicle fuel from underground storage tanks that are within 1,000 feet of a drinking water well.

(4) Coordinate with the State Fire Marshal to add the location and leak history of all pipelines or segments of pipelines that transport motor vehicle fuel and that are regulated by the State Fire Marshal pursuant to Chapter 5.5 (commencing with Section 51010) of Part 1 of Division 1 of Title 5 of the Government Code that are within 1,000 feet of an existing public drinking water well.

(f) The board may expend up to four hundred thousand dollars ($400,000) from the Underground Storage Tank Cleanup Fund for the purposes set forth in Section 25299.36 to fund the GIS mapping system projects referred to in this section.

(g) On or before July 1, 1999, based upon, among other things, an evaluation of the pilot projects, the board shall report to the Legislature and the Governor on the feasibility and appropriateness of establishing a statewide GIS mapping system as described in this section.

SEC. 2. Article 13 (commencing with Section 25299.99) is added to Chapter 6.75 of Division 20 of the Health and Safety Code, to read:

Article 13. Drinking Water Emergency Response Funding

25299.99. (a) The board may annually expend up to five million dollars ($5,000,000) from the fund for the purposes set forth in Section 25299.36 and may expend no more than one million dollars

($1,000,000) of that amount per affected drinking water supply source to pay a public water system for the cost of treatment of the water supply or of providing alternate drinking water supplies, where a public water system requests funds and the public water system demonstrates that a public drinking water well has been contaminated by an oxygenate and there is substantial evidence that the release occurred from an underground storage tank.

(b) The board shall report annually to the Governor and to the Legislature on any money provided to a public water system pursuant to this section.

(c) The board shall be reimbursed by a public water system that has received funds pursuant to this section, to the extent that the public water system receives payment from any source to cover the costs for which it received funding under this section. The public water system shall aggressively pursue cost recovery from responsible persons and shall, upon recovery, or within five years from the initial payment received, whichever occurs first, reimburse the board for funds received pursuant to this section unless the public water system can demonstrate to the board that, despite all reasonable efforts, recovery from a responsible party is not possible, or that a responsible party cannot be identified.

SEC. 3. Article 7.5 (commencing with Section 116610) is added to Chapter 4 of Part 12 of Division 104 of the Health and Safety Code, to read:

## Article 7.5. MTBE Detection

116610. (a) This article shall be known, and may be cited, as the Local Drinking Water Protection Act.

(b) For purposes of this article, "MTBE" means methyl tertiary-butyl ether.

(c) Commencing January 1, 1998, the State Department of Health Services shall commence the process for adopting a primary drinking water standard for MTBE that complies with the criteria established under Section 116365. The State Department of Health Services shall establish a primary drinking water standard for MTBE on or before July 1, 1999. The State Department of Health Services may, at its discretion, set primary drinking water standards for other oxygenates.

(d) On or before July 1, 1998, the State Department of Health Services shall adopt a secondary drinking water standard that complies with the criteria established under subdivision (d) of Section 116275 and that does not exceed a consumer acceptance level for MTBE.

116612. On or before January 1, 1999, the California Drinking Water and Toxic Enforcement Act Scientific Advisory Panel shall make a recommendation to the Office of Environmental Health Hazard Assessment on whether MTBE should be listed as a

carcinogenic or reproductive toxin as set forth in Section 12000 and following of Title 22 of the California Code of Regulations.

SEC. 4. Section 13272.1 is added to the Water Code, to read:

13272.1. Each regional board shall publish and distribute on a quarterly basis to all public water system operators within the region of the regional board, a list of discharges of MTBE that occurred during the quarter and a list of locations where MTBE was detected in the groundwater within the region of the regional board.

SEC. 5. This act shall become operative only if Assembly Bill 592 of the 1997–98 Regular Session is also enacted and becomes effective on or before January 1, 1998.

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## CHAPTER 816

An act to to add Sections 25299.37.1 and 116366 to the Health and Safety Code, and to add Section 13285 to the Water Code, relating to gasoline, and making an appropriation therefor.

[Approved by Governor October 8, 1997. Filed with Secretary of State October 9, 1997.]

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

SECTION 1. This act shall be known, and may be cited, as the MTBE Public Health and Environmental Protection Act of 1997.

SEC. 2. The Legislature hereby finds and declares that the purpose of this act is to provide the public and the Legislature with a thorough and objective evaluation of the human health and environmental risks and benefits, if any, of the use of methyl tertiary-butyl ether (MTBE), as compared to ethyl tertiary-butyl ether (ETBE), tertiary amyl methyl ether (TAME) and ethanol, in gasoline, and to ensure that the air, water quality, and soil impacts of the use of MTBE are fully mitigated.

SEC. 3. (a) The sum of five hundred thousand dollars ($500,000) is hereby appropriated from the Motor Vehicle Fuel Account in the Transportation Tax Fund to the University of California to conduct an independent study and assessment of the human health and environmental risks and benefits, if any, associated with the use of MTBE, as compared to ETBE, TAME, and ethanol.

(b) It is the intent of the Legislature that this study be undertaken by the University of California to assure that the results will be objective and academically sound, and that the report will reflect the high standards expressed in the university's Policy on Integrity in Research.

(c) The assessment shall commence immediately upon the university's agreement and shall include, but not be limited to, all of the following components:

(1) An assessment of the risks and benefits to human health and the environment of MTBE and its combustion byproducts found in air, water, and soil, and a comparison of those risks and benefits to ETBE, TAME, and ethanol that could be used in lieu of MTBE in gasoline.

(2) An assessment of available research and data on the impact of MTBE on human health and the environment in each state where MTBE has been used in gasoline at levels of 10 percent or greater, by volume, within the last five years.

(3) An assessment of the risks to human health and the environment associated with MTBE leaking from underground and aboveground storage tanks, from surface watercraft and other sources of MTBE pollution in surface water bodies, and from oceangoing tankers in coastal waterways of this state.

(4) An analysis of current levels of MTBE in the state's drinking water, reservoirs, lakes, and streams.

(5) An evaluation of the costs and effectiveness of treatment technologies available to remove MTBE from surface waters, groundwaters, and drinking water.

(6) An assessment of the impact of MTBE on vehicle parts and the efficient operation of vehicles.

(7) An assessment of the corrosive effects of MTBE on the structural integrity of fiberglass storage tanks, which may be undertaken in consultation with the California Fire Chiefs Association and other recognized experts on the matter.

(8) A comparison of the incidence of asthma before and after the level of MTBE was increased in California gasoline, considering appropriate factors relating to a nexus between any change in the incidence of asthma and the actual introduction of MTBE into California gasoline.

(9) Identification and quantification of all of the combustion byproducts of MTBE in California's reformulated oxygenated fuel and the type of analytical methods used and their sensitivity.

(10) An evaluation of the scientific peer-reviewed research and literature on the human health and environmental effects of MTBE, as well as any original research necessary to provide the information specified in paragraphs (1) to (9), inclusive.

(11) A focused assessment of the subjects provided for in paragraphs (1), (3), (4), (5), and (8) for the Lake Tahoe Basin.

(d) On or before January 1, 1999, the university shall submit a draft report on the assessment conducted pursuant to this section to the Governor. Upon receiving the draft report, the Governor shall take all of the following actions:

(1) Immediately transmit the draft report without any alteration to the United States Geological Survey and to the Agency for Toxic Substances and Disease Registry at the Centers for Disease Control for their comments, which shall be part of the public record. The comment period shall be approximately six weeks.

(2) Issue a notice of intent to hold two public hearings, and hold those hearings, one in northern California and one in southern California, on dates that are not more than 30 days from the date of receipt of the comments from the United States Geological Survey and the Agency for Toxic Substances and Disease Registry, for the purpose of accepting public testimony on the assessment and report.

(e) Within 10 days from the date of the completion of the public hearings held pursuant to paragraph (2) of subdivision (d), the Governor shall issue a written certification as to the human health and environmental risks of using MTBE in gasoline in this state. The certification shall be based solely upon the assessment and report submitted pursuant to this section and any testimony presented at the public hearings. The certification shall state either of the following conclusions:

(1) That, on balance, there is no significant risk to human health or the environment of using MTBE in gasoline in this state.

(2) That, on balance, there is a significant risk to human health or the environment of using MTBE in gasoline in this state.

(f) If the Governor makes the certification described under paragraph (2) of subdivision (e), then, notwithstanding any other provision of law, the Governor shall take appropriate action to protect public health and the environment.

SEC. 4. (a) If the sale and use of MTBE in gasoline is discontinued pursuant to subdivision (f) of Section 3 of this act, the state shall not thereafter adopt or implement any rule or regulation that permits or requires the use of MTBE in gasoline.

(b) If the sale and use of MTBE is to be discontinued pursuant to subdivision (f) of Section 3 of this act, the State Air Resources Board shall immediately notify the Environmental Protection Agency that the use of MTBE in gasoline in this state will be discontinued.

SEC. 5. Section 25299.37.1 is added to the Health and Safety Code, to read:

25299.37.1. No closure letter pursuant to this chapter shall be issued unless the soil or groundwater, or both, where applicable, at the site have been tested for MTBE and the results of that testing are known to the regional board.

SEC. 6. Section 116366 is added to the Health and Safety Code, to read:

116366. (a) No public water system, or its customers, shall be responsible for remediation or treatment costs associated with MTBE, or a product that contains MTBE, provided, however, that the public water system shall be permitted as necessary to incur MTBE remediation and treatment costs and to include those costs in its customer rates and charges, necessary to comply with drinking water standards or directives of the State Department of Health Services or other lawful authority. Any public water system that incurs MTBE remediation or treatment costs may seek recovery of

those costs from parties responsible for the MTBE contamination, or from other available alternative sources of funds.

(b) If the public water system has included the costs of MTBE treatment and remediation in its customer rates and charges, and subsequently recovers all or a portion of its MTBE treatment and remediation costs from responsible parties or other available alternative sources of funds, it shall make an adjustment to its schedule of rates and charges to reflect the amount of funding received from responsible parties or other available alternative sources of funds for MTBE treatment or remediation.

(c) Subdivision (a) shall not prevent the imposition of liability on any person for the discharge of MTBE if that liability is due to the conduct or status of that person independently of whether the person happens to be a customer of the public water system.

SEC. 7. Section 13285 is added to the Water Code, to read:

13285. (a) Any discharge from a storage tank, pipeline, or other container of methyl tertiary-butyl ether (MTBE), or of any pollutant that contains MTBE, that poses a threat to drinking water, or to groundwater or surface water that may reasonably be used for drinking water, or to coastal waters shall be cleaned up to a level consistent with subdivision (b) of Section 25299.37 of the Health and Safety Code.

(b) (1) No public water system, or its customers, shall be responsible for remediation or treatment costs associated with MTBE, or a product that contains MTBE, provided, however, that the public water system shall be permitted as necessary to incur MTBE remediation and treatment costs and to include those costs in its customer rates and charges, necessary to comply with drinking water standards or directives of the State Department of Health Services or other lawful authority. Any public water system that incurs MTBE remediation or treatment costs may seek recovery of those costs from parties responsible for the MTBE contamination, or from other available alternative sources of funds.

(2) If the public water system has included the costs of MTBE treatment and remediation in its customer rates and charges, and subsequently recovers all or a portion of its MTBE treatment and remediation costs from responsible parties or other available alternative sources of funds, it shall make an adjustment to its schedule of rates and charges to reflect the amount of funding received from responsible parties or other available alternative sources of funds for MTBE treatment or remediation.

(3) Paragraph (1) shall not prevent the imposition of liability on any person for the discharge of MTBE if that liability is due to the conduct or status of that person independently of whether the person happens to be a customer of the public water system.

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CHAPTER 817

An act to amend Sections 208, 209, 290, 290.4, 667.7, 667.71, 667.8, 667.83, 667.85, 1170.1, 1203.066, and 2933.5 of, and to repeal and amend Section 667.61 of, the Penal Code, relating to crimes.

[Approved by Governor October 8, 1997. Filed with
Secretary of State October 9, 1997.]

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

SECTION 1. Section 208 of the Penal Code is amended to read:

208. (a) Kidnapping is punishable by imprisonment in the state prison for three, five, or eight years.

(b) If the person kidnapped is under 14 years of age at the time of the commission of the crime, the kidnapping is punishable by imprisonment in the state prison for 5, 8, or 11 years. This subdivision is not applicable to the taking, detaining, or concealing, of a minor child by a biological parent, a natural father, as specified in Section 7611 of the Family Code, an adoptive parent, or a person who has been granted access to the minor child by a court order.

(c) In all cases in which probation is granted, the court shall, except in unusual cases where the interests of justice would best be served by a lesser penalty, require as a condition of the probation that the person be confined in the county jail for 12 months. If the court grants probation without requiring the defendant to be confined in the county jail for 12 months, it shall specify its reason or reasons for imposing a lesser penalty.

SEC. 2. Section 209 of the Penal Code is amended to read:

209. (a) Any person who seizes, confines, inveigles, entices, decoys, abducts, conceals, kidnaps or carries away another person by any means whatsoever with intent to hold or detain, or who holds or detains, that person for ransom, reward or to commit extortion or to exact from another person any money or valuable thing, or any person who aids or abets any such act, is guilty of a felony, and upon conviction thereof, shall be punished by imprisonment in the state prison for life without possibility of parole in cases in which any person subjected to any such act suffers death or bodily harm, or is intentionally confined in a manner which exposes that person to a substantial likelihood of death, or shall be punished by imprisonment in the state prison for life with the possibility of parole in cases where no such person suffers death or bodily harm.

(b) (1) Any person who kidnaps or carries away any individual to commit robbery, rape, spousal rape, oral copulation, sodomy, or rape by instrument in violation of Section 289, shall be punished by imprisonment in the state prison for life with possibility of parole.

(2) This subdivision shall only apply if the movement of the victim is beyond that merely incidental to the commission of, and increases

the risk of harm to the victim over and above that necessarily present in, the intended underlying offense.

(c) In all cases in which probation is granted, the court shall, except in unusual cases where the interests of justice would best be served by a lesser penalty, require as a condition of the probation that the person be confined in the county jail for 12 months. If the court grants probation without requiring the defendant to be confined in the county jail for 12 months, it shall specify its reason or reasons for imposing a lesser penalty.

(d) Subdivision (b) shall not be construed to supersede or affect Section 667.61. A person may be charged with a violation of subdivision (b) and Section 667.61. However, a person may not be punished under subdivision (b) and Section 667.61 for the same act that constitutes a violation of both subdivision (b) and Section 667.61.

SEC. 3. 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 Section 207 or 209 committed with intent to violate Section 261, 286, 288, 288a, or 289, 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, or subdivision (a) of Section 289.

(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.

(D) A violation of Section 207 or 209 committed with the intent to violate Section 261, 286, 288, 288a, or 289.

(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 or 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, or any violation of Section 207 or 209 committed with the intent to violate Section 261, 286, 288, 288a, or 289, 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. 4. 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 Section 207 or 209 committed with the intent to violate Section 261, 286, 288, 288a, or 289; 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), (h), provided that the offense is a felony, (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 these persons, a photograph, a physical description, gender, race, date of birth, the criminal history, and 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 and 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, municipal police departments of cities 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 departments of cities 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 the purpose of the release of information is to allow members of the public to protect themselves and their children from sex offenders, and 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, or 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 or Section 290, or any other statute expressly authorizing it.

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 shall 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, 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 shall be 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 shall be 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 Assembly Bill 1562 of the 1995–96 Regular Session of the Legislature. 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 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.

(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. 4.1. 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 Section 207 or 209 committed with the intent to violate Section 261, 286, 288, 288a, or 289; 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 266j; Section 267; paragraph (1) of subdivision (b) of Section 286, provided that the offense is a felony; paragraph (2) of subdivision (b), subdivision (c), (d), (f), (g), (i), (j), or (k) of Section 286; Section 288; paragraph (1) of subdivision (b) of Section 288a, provided that the offense is a felony; 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), (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 or any offense which, if committed or attempted in this state, would have been punishable as one or more of the offenses described in this section. This requirement shall not be applied to a person whose duty to register has been terminated pursuant to paragraph (6) 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, and 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 and 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, municipal police departments of cities 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 departments of cities 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, 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 the purpose of the release of information is to allow members of the public to protect themselves and their children from sex offenders, and 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 designated 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" telephone 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" telephone 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" telephone 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" telephone 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 or Section 290, or any other statute expressly authorizing it.

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 a county jail not to exceed six months or by a fine not exceeding one thousand dollars ($1,000), or by both. This subdivision shall 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, court case, or as otherwise authorized by subdivision (n) of Section 290. This subdivision shall not prohibit copying information by handwriting.

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 information, for purposes relating to any of the following, and that is 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" telephone 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 shall be 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) Any law enforcement agency and employees of law enforcement agencies shall be immune from liability for good faith conduct under this section. For the purposes of this section, "law enforcement agency" means the Attorney General, any district attorney, and any state agency expressly authorized by statute to investigate or prosecute law violators.

(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 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.

(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. 4.2. 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 Section 207 or 209 committed with the intent to violate Section 261, 286, 288, 288a, or 289; 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 paragraph (4) 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, and 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 and 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, municipal police departments of cities 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 departments of cities 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 the purpose of the release of information is to allow members of the public to protect themselves and their children from sex offenders, and 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" telephone 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" telephone 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" telephone 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" telephone 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, or 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 or Section 290, or any other statute expressly authorizing it.

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 shall 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, 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" telephone 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 shall be 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 shall be 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 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.

(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. 4.3. 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 Section 207 or 209 committed with the intent to violate Section 261, 286, 288, 288a, or 289; 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), (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 this person, photograph, a physical description, gender, race, date of birth, the criminal history, and 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 and 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, municipal police departments of cities 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 departments of cities 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 the purpose of the release of information is to allow members of the public to protect themselves and their children from sex offenders, and 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" telephone 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" telephone 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" telephone 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 or Section 290, or any other statute expressly authorizing it.

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 a county jail not to exceed six months, or by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine. This subdivision shall 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, 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 by both that imprisonment and fine.

(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 shall be 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) Law enforcement agencies, employees of law enforcement agencies, and state officials shall be immune from liability for good faith conduct under this section.

(j) 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.

(k) 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.

(*l*) No later than December 31, 1998, the Department of Justice shall prepare an informational pamphlet that shall be mailed to any member of the public who makes an inquiry using the "900" telephone number required by this section and who provides an address. The pamphlet shall provide basic information concerning appropriate steps parents, guardians, and other responsible adults

can take to ensure a child is safe from a suspected child molester, including, but not limited to, how to identify suspicious activity by an adult, common facts and myths about child molesters, and how to obtain additional help and information. A notice to callers to the "900" telephone number that they will receive the pamphlet, if an address is provided, shall be included in the preamble required by this section.

(m) This section shall remain operative only until January 1, 2001, and as of that date is repealed unless a later enacted statute, which becomes effective on or before that date, deletes or extends that date.

SEC. 4.4. 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 Section 207 or 209 committed with the intent to violate Section 261, 286, 288, 288a, or 289; 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 266j; Section 267; paragraph (1) of subdivision (b) of Section 286, provided that the offense is a felony; paragraph (2) of subdivision (b), subdivision (c), (d), (f), (g), (i), (j), or (k) of Section 286; Section 288; paragraph (1) of subdivision (b) of Section 288a, provided that the offense is a felony; 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 or any offense which, if committed or attempted in this state, would have been punishable as one or more of the offenses described in this section. This requirement shall not be applied to a person whose duty to register has been terminated pursuant to paragraph (5) 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, and 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 and 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, municipal police departments of cities 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 departments of cities 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, 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 the purpose of the release of information is to allow members of the public to protect themselves and their children from sex offenders, and 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 designated 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" telephone 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" telephone 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" telephone 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" telephone 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 or Section 290, or any other statute expressly authorizing it.

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 a county jail not to exceed six months or by a fine not exceeding one thousand dollars ($1,000), or by both. This subdivision shall 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, court case, or as otherwise authorized by subdivision (n) of Section 290. This subdivision shall not prohibit copying information by handwriting.

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 information, for purposes relating to any of the following, and that is 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" telephone 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 shall be 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) Any law enforcement agency and employees of law enforcement agencies shall be immune from liability for good faith conduct under this section. For the purposes of this section, "law enforcement agency" means the Attorney General, any district attorney, and any state agency expressly authorized by statute to investigate or prosecute law violators.

(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 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.

(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. 4.5. 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 Section 207 or 209 committed with the intent to violate Section 261, 286, 288, 288a, or 289; 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 266j; Section 267; paragraph (1) of subdivision (b) of Section 286, provided that the offense is a felony; paragraph (2) of subdivision (b) of Section 288a provided that the offense is a felony; paragraph (2) of subdivision (b), subdivision (c), (d), (f), (g), (i), (j), or (k) of Section 286; Section 288; paragraph (1) of subdivision (b), (c), (d), (f), (g), (i), (j), or (k) of Section 288a; Section 288.5; subdivision (a), (b), (d), (e), (f), (g), (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 or any offense which, if committed or attempted in this state, would have been punishable as one or more of the offenses described in this section. This requirement shall not be applied to a person whose duty to register has been terminated pursuant to paragraph (6) 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, and 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 and 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, municipal police departments of cities 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 departments of cities 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, 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 the purpose of the release of information is to allow members of the public to protect themselves and their children from sex offenders, and 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 designated 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" telephone 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" telephone 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" telephone 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" telephone 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 or Section 290, or any other statute expressly authorizing it.

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 a county jail not to exceed six months, or by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine. This subdivision shall 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, court case, or as otherwise authorized by subdivision (n) of Section 290. This subdivision shall not prohibit copying information by handwriting.

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 by both that imprisonment and fine.

(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 information, for purposes relating to any of the following, and that is 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" telephone 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 shall be 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) Any law enforcement agency or employees of law enforcement agencies shall be immune from liability for good faith conduct under this section. For the purpose of this section, "law enforcement agency" means the Attorney General, any district attorney, and any state agency expressly authorized by statute to investigate or prosecute law violators.

(j) 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.

(k) 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.

(*l*) No later than December 31, 1998, the Department of Justice shall prepare an informational pamphlet that shall be mailed to any member of the public who makes an inquiry using the "900" telephone number required by this section and who provides an address. The pamphlet shall provide basic information concerning appropriate steps parents, guardians, and other responsible adults can take to ensure a child is safe from a suspected child molester, including, but not limited to, how to identify suspicious activity by an adult, common facts and myths about child molesters, and how to obtain additional help and information. A notice to callers to the "900" telephone number that they will receive the pamphlet, if an address is provided, shall be included in the preamble required by this section.

(m) This section shall remain operative only until January 1, 2001, and as of that date is repealed unless a later enacted statute, which becomes effective on or before that date, deletes or extends that date.

SEC. 4.6. 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 Section 207 or 209 committed with the intent to violate Section 261,

286, 288, 288a, or 289; 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), (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 paragraph (4) 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, and 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 and 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, municipal police departments of cities 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 departments of cities 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 the purpose of the release of information is to allow members of the public to protect themselves and their children from sex offenders, and 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" telephone 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" telephone 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" telephone 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" telephone 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 or Section 290, or any other statute expressly authorizing it.

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 a county jail not to exceed six months, or by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine. This subdivision shall 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, 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 by both that imprisonment and fine.

(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" telephone 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 shall be 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) Law enforcement agencies, employees of law enforcement agencies, and state officials shall be immune from liability for good faith conduct under this section.

(j) 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.

(k) 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.

(*l*) No later than December 31, 1998, the Department of Justice shall prepare an informational pamphlet that shall be mailed to any member of the public who makes an inquiry using the "900" telephone number required by this section and who provides an address. The pamphlet shall provide basic information concerning appropriate steps parents, guardians, and other responsible adults can take to ensure a child is safe from a suspected child molester, including, but not limited to, how to identify suspicious activity by an adult, common facts and myths about child molesters, and how to obtain additional help and information. A notice to callers to the "900" telephone number that they will receive the pamphlet, if an address is provided, shall be included in the preamble required by this section.

(m) This section shall remain operative only until January 1, 2001, and as of that date is repealed unless a later enacted statute, which becomes effective on or before that date, deletes or extends that date.

SEC. 4.7. 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 Section 207 or 209 committed with the intent to violate Section 261, 286, 288, 288a, or 289; 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 266j; Section 267; paragraph (1) of subdivision (b) of Section 286, provided that the offense is a felony; paragraph (2) of subdivision (b), subdivision (c), (d), (f), (g), (i), (j), or (k) of Section 286; Section 288; paragraph (1) of subdivision (b) of Section 288a, provided that the offense is a felony; 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 or any offense which, if committed or attempted in this state, would have been punishable as one or more of the offenses described in this section. This requirement shall not be applied to a person whose duty to register has been terminated pursuant to paragraph (5) 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, and 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 and 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, municipal police departments of cities 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 departments of cities 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, 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 the purpose of the release of information is to allow members of the public to protect themselves and their children from sex offenders, and 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 designated 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" telephone 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" telephone 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" telephone 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" telephone 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 or Section 290, or any other statute expressly authorizing it.

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 a county jail not to exceed six months or by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine. This subdivision shall 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, court case, or as otherwise authorized by subdivision (n) of Section 290. This subdivision shall not prohibit copying information by handwriting.

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 by both that imprisonment and fine.

(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 information, for purposes relating to any of the following, and that is 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" telephone 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 shall be 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) Any law enforcement agency and employees of law enforcement agencies shall be immune from liability for good faith conduct under this section. For the purposes of this section, "law enforcement agency" means the Attorney General, any district attorney, and any state agency expressly authorized by statute to investigate or prosecute law violators.

(j) 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.

(k) 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.

(*l*) No later than December 31, 1998, the Department of Justice shall prepare an informational pamphlet that shall be mailed to any member of the public who makes an inquiry using the "900" telephone number required by this section and who provides an address. The pamphlet shall provide basic information concerning appropriate steps parents, guardians, and other responsible adults can take to ensure a child is safe from a suspected child molester, including, but not limited to, how to identify suspicious activity by an adult, common facts and myths about child molesters, and how to obtain additional help and information. A notice to callers to the "900" telephone number that they will receive the pamphlet, if an address is provided, shall be included in the preamble required by this section.

(m) This section shall remain operative only until January 1, 2001, and as of that date is repealed unless a later enacted statute, which becomes effective on or before that date, deletes or extends that date.

SEC. 5. Section 667.61 of the Penal Code, as added by Chapter 447 of the Statutes of 1994, is repealed.

SEC. 6. Section 667.61 of the Penal Code, as added by Chapter 14 of the First Extraordinary Session of the Statutes of 1994, is amended to read.

667.61. (a) A person who is convicted of an offense specified in subdivision (c) under one or more of the circumstances specified in subdivision (d) or under two or more of the circumstances specified in subdivision (e) shall be punished by imprisonment in the state prison for life and shall not be eligible for release on parole for 25 years except as provided in subdivision (j).

(b) Except as provided in subdivision (a), a person who is convicted of an offense specified in subdivision (c) under one of the circumstances specified in subdivision (e) shall be punished by imprisonment in the state prison for life and shall not be eligible for release on parole for 15 years except as provided in subdivision (j).

(c) This section shall apply to any of the following offenses:

(1) A violation of paragraph (2) of subdivision (a) of Section 261.
(2) A violation of paragraph (1) of subdivision (a) of Section 262.
(3) A violation of Section 264.1.
(4) A violation of subdivision (b) of Section 288.
(5) A violation of subdivision (a) of Section 289.
(6) Sodomy or oral copulation in violation of Section 286 or 288a by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person.
(7) A violation of subdivision (a) of Section 288, unless the defendant qualifies for probation under subdivision (c) of Section 1203.066.

(d) The following circumstances shall apply to the offenses specified in subdivision (c):

(1) The defendant has been previously convicted of an offense specified in subdivision (c), including an offense committed in another jurisdiction that includes all of the elements of an offense specified in subdivision (c).

(2) The defendant kidnapped the victim of the present offense and the movement of the victim substantially increased the risk of harm to the victim over and above that level of risk necessarily inherent in the underlying offense in subdivision (c).

(3) The defendant inflicted aggravated mayhem or torture on the victim or another person in the commission of the present offense in violation of Section 205 or 206.

(4) The defendant committed the present offense during the commission of a burglary, as defined in subdivision (a) of Section 460, with intent to commit an offense specified in subdivision (c).

(e) The following circumstances shall apply to the offenses specified in subdivision (c):

(1) Except as provided in paragraph (2) of subdivision (d), the defendant kidnapped the victim of the present offense in violation of Section 207, 209, or 209.5.

(2) Except as provided in paragraph (4) of subdivision (d), the defendant committed the present offense during the commission of a burglary, as defined in subdivision (a) of Section 460, or during the commission of a burglary of a building, including any commercial establishment, which was then closed to the public, in violation of Section 459.

(3) The defendant personally inflicted great bodily injury on the victim or another person in the commission of the present offense in violation of Section 12022.7 or 12022.8.

(4) The defendant personally used a dangerous or deadly weapon or firearm in the commission of the present offense in violation of Section 12022, 12022.3, or 12022.5.

(5) The defendant has been convicted in the present case or cases of committing an offense specified in subdivision (c) against more than one victim.

(6) The defendant engaged in the tying or binding of the victim or another person in the commission of the present offense.

(7) The defendant administered a controlled substance to the victim by force, violence, or fear in the commission of the present offense in violation of Section 12022.75.

(f) If only the minimum number of circumstances specified in subdivision (d) or (e) which are required for the punishment provided in subdivision (a) or (b) to apply have been pled and proved, that circumstance or those circumstances shall be used as the basis for imposing the term provided in subdivision (a) or (b) rather than being used to impose the punishment authorized under any other law, unless another law provides for a greater penalty. However, if any additional circumstance or circumstances specified in subdivision (d) or (e) have been pled and proved, the minimum number of circumstances shall be used as the basis for imposing the term provided in subdivision (a), and any other additional circumstance or circumstances shall be used to impose any punishment or enhancement authorized under any other law. Notwithstanding any other law, the court shall not strike any of the circumstances specified in subdivision (d) or (e).

(g) The term specified in subdivision (a) or (b) shall be imposed on the defendant once for any offense or offenses committed against a single victim during a single occasion. If there are multiple victims during a single occasion, the term specified in subdivision (a) or (b) shall be imposed on the defendant once for each separate victim. Terms for other offenses committed during a single occasion shall be imposed as authorized under any other law, including Section 667.6, if applicable.

(h) Probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, any person who is subject to punishment under this section for any offense specified in paragraphs (1) to (6), inclusive, of subdivision (c).

(i) For the penalties provided in this section to apply, the existence of any fact required under subdivision (d) or (e) shall be alleged in the accusatory pleading and either admitted by the defendant in open court or found to be true by the trier of fact.

(j) Article 2.5 (commencing with Section 2930) of Chapter 7 of Title 1 of Part 3 shall apply to reduce the minimum term of 25 years in the state prison imposed pursuant to subdivision (a) or 15 years in the state prison imposed pursuant to subdivision (b). However, in no case shall the minimum term of 25 or 15 years be reduced by more than 15 percent for credits granted pursuant to Section 2933, 4019, or any other law providing for conduct credit reduction. In no case shall any person who is punished under this section be released on parole prior to serving at least 85 percent of the minimum term of 25 or 15 years in the state prison.

SEC. 7. Section 667.7 of the Penal Code is amended to read:

667.7. (a) Any person convicted of a felony in which the person inflicted great bodily injury as provided in Section 12022.7, or personally used force which was likely to produce great bodily injury, who has served two or more prior separate prison terms as defined in Section 667.5 for the crime of murder; attempted murder; voluntary manslaughter; mayhem; rape by force, violence, or fear of immediate and unlawful bodily injury on the victim or another person; oral copulation by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person; sodomy by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person; lewd acts on a child under the age of 14 years by use of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person; a violation of subdivision (a) of Section 289 where the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person; kidnapping as punished in former subdivision (d) of Section 208, or for ransom, extortion, or robbery; robbery involving the use of force or a deadly weapon; assault with intent to commit murder; assault with a deadly weapon; carjacking involving the use of a deadly weapon; assault with intent to commit murder; assault with a deadly weapon; assault with a force likely to produce great bodily injury; assault with intent to commit rape, sodomy, oral copulation, penetration of a vaginal or anal opening in violation of Section 289, or lewd and lascivious acts on a child; arson of a structure; escape or attempted escape by an inmate with force or violence in violation of subdivision (a) of Section 4530, or of Section 4532; exploding a device with intent to murder in violation of Section 12308; exploding a destructive device which causes bodily injury in violation of Section 12309, or mayhem or great bodily injury in violation of Section 12310; exploding a destructive device with intent to injure, intimidate, or terrify, in violation of Section 12303.3; any felony in which the person inflicted great bodily injury as provided in Section 12022.7; or any felony punishable by death or life imprisonment with or without the possibility of parole is a habitual offender and shall be punished as follows:

(1) A person who served two prior separate prison terms shall be punished by imprisonment in the state prison for life and shall not be eligible for release on parole for 20 years, or the term determined by the court pursuant to Section 1170 for the underlying conviction, including any enhancement applicable under Chapter 4.5 (commencing with Section 1170) of Title 7 of Part 2, or any period prescribed by Section 190 or 3046, whichever is greatest. Article 2.5 (commencing with Section 2930) of Chapter 7 of Title 1 of Part 3 shall apply to reduce any minimum term in a state prison imposed pursuant to this section, but the person shall not otherwise be released on parole prior to that time.

(2) Any person convicted of a felony specified in this subdivision who has served three or more prior separate prison terms, as defined in Section 667.5, for the crimes specified in subdivision (a) of this section shall be punished by imprisonment in the state prison for life without the possibility of parole.

(b) This section shall not prevent the imposition of the punishment of death or imprisonment for life without the possibility of parole. No prior prison term shall be used for this determination which was served prior to a period of 10 years in which the person remained free of both prison custody and the commission of an offense which results in a felony conviction. As used in this section, a commitment to the Department of the Youth Authority after conviction for a felony shall constitute a prior prison term. The term imposed under this section shall be imposed only if the prior prison terms are alleged under this section in the accusatory pleading, 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 a plea of guilty or nolo contendere or by a trial by the court sitting without a jury.

SEC. 8. Section 667.71 of the Penal Code is amended to read:

667.71. (a) For the purpose of this section, a habitual sexual offender is a person who has been previously convicted of one or more of the offenses listed in subdivision (d) and who is convicted in the present proceeding of one of those offenses.

(b) A habitual sexual offender is punishable by imprisonment in the state prison for 25 years to life. Article 2.5 (commencing with Section 2930) of Chapter 7 of Title 1 of Part 3 shall apply to reduce any minimum term of 25 years in the state prison imposed pursuant to this section. However, in no case shall the minimum term of 25 years be reduced by more that 15 percent for credits granted pursuant to Section 2933, 4019, or any other law providing for conduct credit reduction. In no case shall any person who is punished under this section be released on parole prior to serving at least 85 percent of the minimum term of 25 years in the state prison.

(c) At the request of the prosecutor and in lieu of the punishment specified in subdivision (b), the court shall order that the defendant be punished pursuant to Section 667.6, 667.61, 667.7, or 1170.1, if applicable.

(d) This section shall apply to persons found guilty of violating paragraph (2) of subdivision (a) of Section 261, paragraph (1) of subdivision (a) of Section 262, Section 264.1, subdivision (a) or (b) of Section 288, subdivision (a) of Section 289, or of committing sodomy or oral copulation in violation of Section 286 or 288a by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person, or found guilty of kidnapping, as punished in former subdivision (d) of Section 208, kidnapping in violation of Section 209 with the intent to commit rape, spousal rape, oral copulation, sodomy, lewd or lascivious acts on a child under 14

years of age in violation of Section 288, or rape by instrument in violation of Section 289, or an offense committed in another jurisdiction that has all the elements of an offense specified in this subdivision.

(e) This section shall apply only if the defendant's status as a habitual sexual offender is alleged in the information, 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 a plea of guilty or nolo contendere or by trial by court sitting without a jury.

SEC. 9. Section 667.8 of the Penal Code is amended to read:

667.8. (a) Except as provided in subdivision (b), any person convicted of a felony violation of Section 261, 262, 264.1, 286, 288a, or 289 who, for the purpose of committing that sexual offense, kidnapped the victim in violation of Section 207 or 209, shall be punished by an additional term of nine years.

(b) Any person convicted of a felony violation of subdivision (c) of Section 286, Section 288, or subdivision (c) of Section 288a who, for the purpose of committing that sexual offense, kidnapped the victim, who was under the age of 14 years at the time of the offense, in violation of Section 207 or 209, shall be punished by an additional term of 15 years. This subdivision is not applicable to conduct proscribed by Section 277, 278, or 278.5.

(c) The following shall govern the imposition of an enhancement pursuant to this section:

(1) Only one enhancement shall be imposed for a victim per incident.

(2) If there are two or more victims, one enhancement can be imposed for each victim per incident.

(3) The enhancement may be in addition to the punishment for either, but not both, of the following:

(A) A violation of Section 207 or 209.

(B) A violation of the sexual offenses enumerated in this section.

SEC. 10. Section 667.83 of the Penal Code is amended to read:

667.83. (a) When a person is convicted of a felony violation of Section 207, 209, 261, 264.1, 273a, 273d, 286, 288a, or 289 committed against a child under the age of 18 years or a violation of Section 288 committed against a child of the age designated in that statute, where the offense was committed as part of a ceremony, rite, or any similar observance, the person shall be punished by an additional term of three years in addition and consecutive to that violation.

(b) For purposes of this section, a "ceremony, rite, or any similar observance" shall mean any of the following:

(1) Actual or simulated torture, mutilation, or sacrifice of any mammal.

(2) Forced ingestion, or external application of human or animal urine, feces, flesh, blood, or bones.

(3) Placement of a living child into a coffin, open grave, or other confined area containing animal remains or a human corpse or remains.

(c) This section shall not apply to:

(1) Lawful agricultural, animal husbandry, food preparation, or wild game hunting and fishing practices and specifically the branding or identification of livestock.

(2) The lawful medical practice of circumcision or any ceremony related thereto.

(3) Any state or federally approved, licensed, or funded research project.

(d) The enhancement charged in violation of subdivision (a) shall be proven by the testimony of two witnesses, or of one witness and corroborating circumstances.

(e) The following provisions govern the imposition of this enhancement:

(1) Only one enhancement shall be imposed per victim per incident.

(2) If there are two or more victims, one enhancement may be imposed per victim per incident.

(f) The Department of Justice shall submit to the Legislature on or before January 1, 1998, a report compiling data from the Department of Justice form 8715 containing information relating to this section that has been reported into the Department of Justice automated criminal history system and is available on the longitudinal file.

(g) Persons responsible for the completion of the Department of Justice form 8715 shall submit the form to the Attorney General in a timely manner. In addition, those persons shall record all cases in which enhancements are charged under this section and the disposition of those cases.

(h) This section shall not be construed to infringe in any way upon the rights and practices of legitimate religions.

(i) This section shall remain in effect only until January 1, 1999, and as of that date is repealed unless a later enacted statute, that is enacted before January 1, 1999, deletes or extends that date.

SEC. 11. Section 667.85 of the Penal Code is amended to read:

667.85. Any person convicted of a violation of Section 207 or 209, who kidnapped or carried away any child under the age of 14 years with the intent to permanently deprive the parent or legal guardian custody of that child, shall be punished by imprisonment in the state prison for an additional five years.

SEC. 12. Section 1170.1 of the Penal Code is amended to read:

1170.1. (a) Except as provided in subdivision (c) and subject to Section 654, when any person is convicted of two or more felonies, whether in the same proceeding or court or in different proceedings or courts, and whether by judgment rendered by the same or by a different court, and a consecutive term of imprisonment is imposed

under Sections 669 and 1170, the aggregate term of imprisonment for all these convictions shall be the sum of the principal term, the subordinate term, and any additional term imposed pursuant to Section 667, 667.5, 667.6, or 12022.1, and pursuant to Section 11370.2 of the Health and Safety Code. The principal term shall consist of the greatest term of imprisonment imposed by the court for any of the crimes, including any enhancements imposed pursuant to subdivision (c) of Section 186.10 or Section 667.15, 667.8, 667.83, 667.85, 12022, 12022.2, 12022.3, 12022.4, 12022.5, 12022.55, 12022.6, 12022.7, 12022.75, 12022.8, or 12022.9 of this code, and an enhancement imposed pursuant to Section 11370.4 or 11379.8 of the Health and Safety Code. The subordinate term for each consecutive offense which is not a "violent felony" as defined in subdivision (c) of Section 667.5 shall consist of one-third of the middle term of imprisonment prescribed for each other felony conviction for an offense that is not a violent felony for which a consecutive term of imprisonment is imposed, and shall exclude any enhancements. In no case shall the total of subordinate terms for these consecutive offenses which are not "violent felonies" as defined in subdivision (c) of Section 667.5 exceed five years. The subordinate term for each consecutive offense which is a "violent felony" as defined in subdivision (c) of Section 667.5, including those offenses described in paragraph (8), (9), or (17) of subdivision (c) of Section 667.5, shall consist of one-third of the middle term of imprisonment prescribed for each other felony conviction for an offense that is a violent felony for which a consecutive term of imprisonment is imposed, and shall include one-third of any enhancements imposed pursuant to Section 667.15, 667.8, 667.83, 667.85, 12022, 12022.2, 12022.4, 12022.5, 12022.55, 12022.7, 12022.75, or 12022.9.

(b) (1) When a consecutive term of imprisonment is imposed under Sections 669 and 1170 for two or more convictions for kidnapping, as defined in Section 207, involving separate victims or the same victim on separate occasions, the aggregate term shall be calculated as provided in subdivision (a), except that the subordinate term for each subsequent kidnapping conviction shall consist of the middle term for each kidnapping conviction for which a consecutive term of imprisonment is imposed and shall include one-third of any enhancements imposed pursuant to Section 667.8, 667.83, 667.85, 12022, 12022.2, 12022.4, 12022.5, 12022.55, 12022.7, 12022.75, or 12022.9. The five-year limitation on the total of subordinate terms provided in subdivision (a) shall not apply to subordinate terms for second and subsequent convictions of kidnapping, as defined in Section 207, involving separate victims or the same victim on separate occasions.

(2) As used in this subdivision, "separate occasion" means the defendant committed a second violation of Section 207 involving the same victim after at least 24 hours elapsed following his or her release of the victim.

(c) In the case of any person convicted of one or more felonies committed while the person is confined in a state prison, or is subject to reimprisonment for escape from custody and the law either requires the terms to be served consecutively or the court imposes consecutive terms, the term of imprisonment for all the convictions which the person is required to serve consecutively shall commence from the time the person would otherwise have been released from prison. If the new offenses are consecutive with each other, the principal and subordinate terms shall be calculated as provided in subdivision (a), except that the total of subordinate terms may exceed five years. This subdivision shall be applicable in cases of convictions of more than one offense in different proceedings, and convictions of more than one offense in the same or different proceedings.

(d) When the court imposes a prison sentence for a felony pursuant to Section 1170, the court shall also impose the additional terms provided in subdivision (c) of Section 186.10 and Sections 667, 667.15, 667.5, 667.8, 667.83, 667.85, 12022, 12022.1, 12022.2, 12022.4, 12022.5, 12022.55, 12022.6, 12022.7, 12022.75, and 12022.9 of this code, and the additional terms provided in Section 11370.2, 11370.4, or 11379.8 of the Health and Safety Code, unless the additional punishment therefor is stricken pursuant to subdivision (h). The court shall also impose any other additional term which the court determines in its discretion or as required by law shall run consecutive to the term imposed under Section 1170. In considering the imposition of the additional term, the court shall apply the sentencing rules of the Judicial Council.

(e) When two or more enhancements under Sections 12022, 12022.4, 12022.5, 12022.55, 12022.7, and 12022.9 may be imposed for any single offense, only the greatest enhancement shall apply. However, in cases of lewd or lascivious acts upon or with a child under the age of 14 years accomplished by means of force or fear, as described in Section 288, kidnapping, as defined in Section 207, subdivision (b) of Section 209, or Section 209.5, sexual battery, as defined in Section 243.4, spousal rape, as defined in Section 262, penetration of a genital or anal opening by a foreign object, as defined in Section 289, oral copulation, sodomy, robbery, carjacking, rape or burglary, or attempted lewd or lascivious acts upon or with a child under the age of 14 years accomplished by means of force or fear, kidnapping, sexual battery, spousal rape, penetration of a genital or anal opening by a foreign object, oral copulation, sodomy, robbery, carjacking, rape, murder, or burglary the court may impose both (1) one enhancement for weapons as provided in either Section 12022, 12022.4, or subdivision (a) of, or paragraph (2) of subdivision (b) of, Section 12022.5 and (2) one enhancement for great bodily injury as provided in either Section 12022.7 or 12022.9.

(f) The enhancements provided in subdivision (c) of Section 186.10 and Sections 667, 667.15, 667.5, 667.6, 667.8, 667.83, 667.85,

12022, 12022.1, 12022.2, 12022.3, 12022.4, 12022.5, 12022.55, 12022.6, 12022.7, 12022.75, 12022.8, and 12022.9 of this code, and in Section 11370.2, 11370.4, or 11379.8 of the Health and Safety Code, shall be pleaded and proven as provided by law.

(g) (1) The term of imprisonment shall not exceed twice the number of years imposed by the trial court as the base term pursuant to subdivision (b) of Section 1170, unless the defendant stands convicted of a "violent felony" as defined in subdivision (c) of Section 667.5, or a consecutive sentence is being imposed pursuant to subdivision (b) or (c) of this section, or an enhancement is imposed pursuant to subdivision (c) of Section 186.10 or Section 667, 667.15, 667.5, 667.8, 667.83, 667.85, 12022, 12022.2, 12022.4, 12022.5, 12022.55, 12022.6, 12022.7, 12022.75, or 12022.9 of this code, or an enhancement is being imposed pursuant to Section 11370.2, 11370.4, or 11379.8 of the Health and Safety Code, or the defendant stands convicted of felony escape from an institution in which he or she is lawfully confined.

(2) The term of imprisonment shall not exceed twice the number of years imposed by the trial court as the base term pursuant to subdivision (b) of Section 1170 unless an enhancement is imposed pursuant to Section 12022.1 and both the primary and secondary offenses specified in Section 12022.1 are serious felonies as specified in subdivision (c) of Section 1192.7.

(h) Notwithstanding any other law, the court may strike the additional punishment for the enhancements provided in subdivision (c) of Section 186.10 and Sections 667.15, 667.5, 667.8, 667.83, 667.85, 12022, 12022.1, 12022.2, 12022.4, 12022.6, 12022.7, 12022.75, and 12022.9 of this code, or the enhancements provided in Section 11370.2, 11370.4, or 11379.8 of the Health and Safety Code, if it determines that there are circumstances in mitigation of the additional punishment and states on the record its reasons for striking the additional punishment.

(i) For any 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, the number of enhancements which may be imposed shall not be limited, regardless of whether the enhancements are pursuant to this or some other section of law. Each of the enhancements shall be a full and separately served enhancement and shall not be merged with any term or with any other enhancement.

SEC. 13. Section 1203.066 of the Penal Code is amended to read:

1203.066. (a) Notwithstanding Section 1203 or any other law, probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, nor shall a finding bringing the defendant within the provisions of this section be stricken pursuant to Section 1385 for, any of the following persons:

(1) A person who is convicted of violating Section 288 or 288.5 when the act is committed by the use of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person.

(2) A person who caused bodily injury on the child victim in committing a violation of Section 288 or 288.5.

(3) A person who is convicted of a violation of Section 288 or 288.5 and who was a stranger to the child victim or befriended the child victim for the purpose of committing an act in violation of Section 288 or 288.5, unless the defendant honestly and reasonably believed the victim was 14 years of age or older.

(4) A person who used a weapon during the commission of a violation of Section 288 or 288.5.

(5) A person who is convicted of committing a violation of Section 288 or 288.5 and who has been previously convicted of a violation of Section 261, 262, 264.1, 266, 266c, 267, 285, 286, 288, 288.5, 288a, or 289, or of assaulting another person with intent to commit a crime specified in this paragraph in violation of Section 220, or who has been previously convicted in another state of an offense which, if committed or attempted in this state, would constitute an offense enumerated in this paragraph.

(6) A person who violated Section 288 or 288.5 while kidnapping the child victim in violation of Section 207, 209, or 209.5.

(7) A person who is convicted of committing a violation of Section 288 or 288.5 against more than one victim.

(8) A person who, in violating Section 288 or 288.5, has substantial sexual conduct with a victim who is under 14 years of age.

(9) A person who, in violating Section 288 or 288.5, used obscene matter, as defined in Section 311, or matter, as defined in Section 311, depicting sexual conduct, as defined in Section 311.3.

(b) "Substantial sexual conduct" means penetration of the vagina or rectum of either the victim or the offender by the penis of the other or by any foreign object, oral copulation, or masturbation of either the victim or the offender.

(c) Paragraphs (7), (8), and (9) of subdivision (a) shall not apply when the court makes all of the following findings:

(1) The defendant is the victim's natural parent, adoptive parent, stepparent, relative, or is a member of the victim's household who has lived in the victim's household.

(2) A grant of probation to the defendant is in the best interest of the child.

(3) Rehabilitation of the defendant is feasible, the defendant is amenable to undergoing treatment, and the defendant is placed in a recognized treatment program designed to deal with child molestation immediately after the grant of probation or the suspension of execution or imposition of sentence.

(4) The defendant is removed from the household of the victim until the court determines that the best interests of the victim would

be served by returning the defendant to the household of the victim. While removed from the household, the court shall prohibit contact by the defendant with the victim, except the court may permit the supervised contact, upon the request of the director of the court ordered supervised treatment program, and with the agreement of the victim and the victim's parent or legal guardian, other than the defendant. As used in this paragraph, "contact with the victim" includes all physical contact, being in the presence of the victim, communication by any means, any communication by a third party acting on behalf of the defendant, and any gifts.

(5) There is no threat of physical harm to the child victim if probation is granted. The court upon making its findings pursuant to this subdivision is not precluded from sentencing the defendant to jail or prison, but retains the discretion not to do so. The court shall state its reasons on the record for whatever sentence it imposes on the defendant.

The court shall order the psychiatrist or psychologist who is appointed pursuant to Section 288.1 to include a consideration of the factors specified in paragraphs (2), (3), and (4) in making his or her report to the court.

(d) The existence of any fact that would make a person ineligible for probation under subdivision (a) shall be alleged in the accusatory pleading and either admitted by the defendant in open court or found to be true by the jury trying the issue of guilt or by the court where guilt is established by plea of guilty or nolo contendere or by trial by the court sitting without a jury.

(e) As used in this section and in Section 1000.12, the following terms apply:

(1) "Recognized treatment program" means a program with substantial expertise in the treatment of children who are victims of sexual abuse, their families, and offenders, that demonstrates to the court all of the following:

(A) An integrated program of treatment and assistance to victims and their families.

(B) A treatment regimen designed to specifically address the offense.

(C) The ability to serve indigent clients.

(2) "Integrated program of treatment and assistance to victims and their families" means that the program provides all of the following:

(A) A full range of services necessary to the recovery of the victim and any nonoffending members of the victim's family, including individual, group, and family counseling as necessary.

(B) Interaction with the courts, social services, probation, the district attorney, and other government agencies to ensure appropriate help to the victim's family.

(C) Appropriate supervision and treatment, as required by law, for the offender.

(f) For purposes of this section and Section 1000.12, a program that provides treatment only to offenders and does not provide an integrated program of treatment and assistance to victims and their families is not a recognized treatment program.

SEC. 14. Section 2933.5 of the Penal Code is amended to read:

2933.5. (a) (1) Notwithstanding any other law, every person who is convicted of any felony offense listed in paragraph (2), and who previously has been convicted two or more times, on charges separately brought and tried, and who previously has served two or more separate prior prison terms, as defined in subdivision (g) of Section 667.5, of any offense or offenses listed in paragraph (2), shall be ineligible to earn credit on his or her term of imprisonment pursuant to this chapter.

(2) As used in this subdivision, "felony offense" includes any of the following:

(A) Murder, as defined in Sections 187 and 189.

(B) Voluntary manslaughter, as defined in subdivision (a) of Section 192.

(C) Mayhem as defined in Section 203.

(D) Aggravated mayhem, as defined in Section 205.

(E) Kidnapping, as defined in Section 207, 209, or 209.5.

(F) Assault with vitriol, corrosive acid, or caustic chemical of any nature, as described in Section 244.

(G) Rape, as defined in paragraph (2) or (6) of subdivision (a) of Section 261 or paragraph (1) or (4) of subdivision (a) of Section 262.

(H) Sodomy by means of force, violence, duress, menace or fear of immediate and unlawful bodily injury on the victim or another person, as described in subdivision (c) of Section 286.

(I) Sodomy while voluntarily acting in concert, as described in subdivision (d) of Section 286.

(J) Lewd or lascivious acts on a child under the age of 14 years, as described in subdivision (b) of Section 288.

(K) Oral copulation by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person, as described in subdivision (c) of Section 288a.

(L) Continuous sexual abuse of a child, as described in Section 288.5.

(M) Penetration by foreign object, as described in subdivision (a) of Section 289.

(N) Exploding a destructive device or explosive with intent to injure, as described in Section 12303.3, with intent to murder, as described in Section 12308, or resulting in great bodily injury or mayhem, as described in Section 12309.

(O) Any felony in which the defendant personally inflicted great bodily injury, as provided in Section 12022.7.

(b) A prior conviction of an offense listed in subdivision (a) shall include a conviction in another jurisdiction for an offense which

includes all of the elements of the particular felony as defined under California law.

(c) This section shall apply whenever the present felony is committed on or after the effective date of this section, regardless of the date of commission of the prior offense or offenses resulting in credit-earning ineligibility.

(d) This section shall be in addition to, and shall not preclude the imposition of, any applicable sentence enhancement terms, or probation ineligibility and habitual offender provisions authorized under any other section.

SEC. 15. (a) Section 4.1 of this bill incorporates amendments to Section 290.4 of the Penal Code proposed by both this bill and AB 290. 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 290.4 of the Penal Code, (3) SB 314 and SB 1078 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after AB 290, in which case Section 290.4 of the Penal Code as amended by AB 290 shall remain operative only until the operative date of this bill and Sections 4, 4.2, 4.3, 4.4, 4.5, 4.6, and 4.7 of this bill shall not become operative.

(b) Section 4.2 of this bill incorporates amendments to Section 290.4 of the Penal Code proposed by both this bill and SB 314. 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 290.4 of the Penal Code, (3) AB 290 and SB 1078 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after SB 314, in which case Sections 4, 4.1, 4.3, 4.4, 4.5, 4.6, and 4.7 of this bill shall not become operative.

(c) Section 4.3 of this bill incorporates amendments to Section 290.4 of the Penal Code proposed by both this bill and SB 1078. 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 290.4 of the Penal Code, (3) AB 290 and SB 314 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after SB 1078, in which case Sections 4, 4.1, 4.2, 4.4, 4.5, 4.6, and 4.7 of this bill shall not become operative.

(d) Section 4.4 of this bill incorporates amendments to Section 290.4 of the Penal Code proposed by this bill, AB 290, and SB 314. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 1998, (2) each bill amends Section 290.4 of the Penal Code, (3) SB 1078 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 290 and SB 314, in which case Section 290.4 of the Penal Code as amended by AB 290 shall remain operative only until the operative date of this bill and Sections 4, 4.1, 4.2, 4.3, 4.5, 4.6, and 4.7 of this bill shall not become operative.

(e) Section 4.5 of this bill incorporates amendments to Section 290.4 of the Penal Code proposed by this bill, AB 290, and SB 1078. It

shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 1998, (2) each bill amends Section 290.4 of the Penal Code, (3) SB 314 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 290 and SB 1078, in which case Section 290.4 of the Penal Code as amended by AB 290 shall remain operative only until the operative date of this bill and Sections 4, 4.1, 4.2, 4.3, 4.4, 4.6, and 4.7 of this bill shall not become operative.

(f) Section 4.6 of this bill incorporates amendments to Section 290.4 of the Penal Code proposed by this bill, SB 314, and SB 1078. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 1998, (2) each bill amends Section 290.4 of the Penal Code, (3) AB 290 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after SB 314 and SB 1078, in which case Sections 4.1, 4.2, 4.3, 4.4, 4.5, and 4.7 of this bill shall not become operative.

(g) Section 4.7 of this bill incorporates amendments to Section 290.4 of the Penal Code proposed by this bill, SB AB 20, SB 314, and SB 1078. It shall only become operative if (1) all four bills are enacted and become effective on or before January 1, 1998, (2) each bill amends Section 290.4 of the Penal Code, (3) this bill is enacted after AB 290, SB 314, and SB 1078, in which case Section 290.4 of the Penal Code as amended by AB 290 shall remain operative only until the operative date of this bill and Sections 4, 4.1, 4.2, 4.3, 4.4, 4.5, and 4.6 of this bill shall not become operative.

SEC. 16. Section 12 of this act, which amends Section 1170.1 of the Penal Code, shall not become operative if Senate Bill 721 of the 1997–98 Regular Session is enacted and becomes operative on or before January 1, 1998, and Senate Bill 721 amends Section 1170.1 of the Penal Code.

SEC. 17. It is the intent of the Legislature in enacting this act that the two-prong test of asportation for kidnapping, as set forth in People v. Daniels, 71 Cal. 2d 1119, 1139, be applied to violations of subdivision (b) of Section 209 of the Penal Code, as amended by this act, pursuant to the decision of the California Supreme Court in People v. Rayford, 9 Cal. 4th 1, 20.

SEC. 18. This act shall not be construed to do any of the following:

(a) Repeal the duty of persons convicted of conduct covered under former subdivision (d) of Section 208 of the Penal Code to register pursuant to the provisions of Section 290 of the Penal Code.

(b) Forgive or legalize any conduct prohibited by Section 208 or 667.61 of the Penal Code, as either of those sections read prior to January 1, 1998.

(c) Void or make voidable or render invalid any conviction for a violation of Section 208, 290, or 667.61 of the Penal Code, as any of those sections read prior to January 1, 1998.

(d) Bar any prosecution for any conduct prohibited by Section 208, 290, or 667.61 of the Penal Code, as any of those sections read prior to January 1, 1998.

SEC. 19. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because in that regard this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

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

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## CHAPTER 818

An act to amend Sections 266h, 266i, and 290 of, and to add and repeal Section 290.9 of, the Penal Code, and to amend Section 5328.2 of the Welfare and Institutions Code, relating to sex offenders.

[Approved by Governor October 8, 1997. Filed with Secretary of State October 9, 1997.]

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

SECTION 1. In order to ensure the continued receipt of federal anti-drug abuse funds by the state and to protect the public from repeat violent sex offenders, it is the intent of the Legislature that California sex offender registration statutes comply with the provisions of the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Program contained in the federal Violent Crime Control and Law Enforcement Act of 1994 (Section 14071 of Title 42 of the United States Code).

SEC. 2. Section 266h of the Penal Code is amended to read:

266h. (a) Except as provided in subdivision (b), any person who, knowing another person is a prostitute, lives or derives support or maintenance in whole or in part from the earnings or proceeds of the

person's prostitution, or from money loaned or advanced to or charged against that person by any keeper or manager or inmate of a house or other place where prostitution is practiced or allowed, or who solicits or receives compensation for soliciting for the person, is guilty of pimping, a felony, and shall be punished by imprisonment in the state prison for three, four, or six years.

(b) If the person engaged in prostitution is a minor over the age of 16 years, the offense is punishable by imprisonment in the state prison for three, four, or six years. If the person engaged in prostitution is under 16 years of age, the offense is punishable by imprisonment in the state prison for three, six, or eight years.

SEC. 3. Section 266i of the Penal Code is amended to read:

266i. (a) Except as provided in subdivision (b), any person who does any of the following is guilty of pandering, a felony, and shall be punished by imprisonment in the state prison for three, four, or six years:

(1) Procures another person for the purpose of prostitution.

(2) By promises, threats, violence, or by any device or scheme, causes, induces, persuades or encourages another person to become a prostitute.

(3) Procures for another person a place as an inmate in a house of prostitution or as an inmate of any place in which prostitution is encouraged or allowed within this state.

(4) By promises, threats, violence or by any device or scheme, causes, induces, persuades or encourages an inmate of a house of prostitution, or any other place in which prostitution is encouraged or allowed, to remain therein as an inmate.

(5) By fraud or artifice, or by duress of person or goods, or by abuse of any position of confidence or authority, procures another person for the purpose of prostitution, or to enter any place in which prostitution is encouraged or allowed within this state, or to come into this state or leave this state for the purpose of prostitution.

(6) Receives or gives, or agrees to receive or give, any money or thing of value for procuring, or attempting to procure, another person for the purpose of prostitution, or to come into this state or leave this state for the purpose of prostitution.

(b) If the other person is a minor over the age of 16 years, the offense is punishable by imprisonment in the state prison for three, four, or six years. Where the other person is under 16 years of age, the offense is punishable by imprisonment in the state prison for three, six, or eight years.

SEC. 4. 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. In addition, every person who is a sexually violent predator, as defined in Section 6600 of the Welfare and Institutions Code, shall, after his or her release from custody, verify his or her address every 90 days in a manner established 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, subdivision (b) of Section 266h, subdivision (b) of Section 266i, 266j, 267, 269, 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 (c) of Section 653f, subdivision 1 or 2 of Section 314, any offense involving lewd or 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 which, 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 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.

(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) Except as provided in paragraph (5) and 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) Except as provided in paragraph (5), 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.

(5) Any person who, as a sexually violent predator, as defined in Section 6600 of the Welfare and Institutions Code, fails to verify his or her registration every 90 days as required in this section, shall be punished by imprisonment in the state prison, or in a county jail not exceeding one year.

(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.

(3) Every person who, as a sexually violent predator, as defined in Section 6600 of the Welfare and Institutions Code, is required to verify his or her registration every 90 days, shall be notified wherever he or she next registers of his or her increased registration obligations. This notice shall be provided in writing by the registering agency or agencies. Failure to receive this notice shall be a defense against the penalties prescribed by paragraph (5) of subdivision (g).

(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 specified in paragraph (1) of subdivision (a) of Section 290.4 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.

(v) Has been adjudicated a sexually violent predator pursuant to Article 4 (commencing with Section 6600) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code.

(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. 5. Section 290.9 is added to the Penal Code, to read:

290.9. (a) The Department of Justice shall report to the Legislature no later than July 1, 1999, on the implementation and effectiveness of the 90-day registration requirement imposed on sexually violent predators under paragraph (1) of subdivision (a) of Section 290.

(b) 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. 6. Section 5328.2 of the Welfare and Institutions Code is amended to read:

5328.2. Notwithstanding Section 5328, movement and identification information and records regarding a patient who is committed to the department, state hospital, or any other public or private mental health facility approved by the county mental health director for observation or for an indeterminate period as a mentally disordered sex offender, or for a person who is civilly committed as a sexually violent predator pursuant to Article 4 (commencing with Section 6600) of Chapter 2 of Part 2 of Division 6, or regarding a patient who is committed to the department, to a state hospital, or any other public or private mental health facility approved by the county mental health director under Section 1026 or 1370 of the Penal Code or receiving treatment pursuant to Section 5300 of this code, shall be forwarded immediately without prior request to the Department of Justice. Except as otherwise provided by law, information automatically reported under this section shall be restricted to name, address, fingerprints, date of admission, date of discharge, date of escape or return from escape, date of any home leave, parole or leave of absence and, if known, the county in which the person will reside upon release. The Department of Justice may in turn furnish information reported under this section pursuant to

Section 11105 or 11105.1 of the Penal Code. It shall be a misdemeanor for recipients furnished with this information to in turn furnish the information to any person or agency other than those specified in Section 11105 or 11105.1 of the Penal Code.

SEC. 7. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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

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## CHAPTER 819

An act to amend Sections 290 and 290.4 of the Penal Code, relating to sex offenders.

[Approved by Governor October 8, 1997. Filed with Secretary of State October 9, 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, the California State University, or community college 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 which, 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 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 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 juvenile 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 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 paragraph (3), shall be subject to registration under the procedures of this section.

(3) Any person described in this subdivision who committed an offense in violation of any of the following provisions shall be required to register pursuant to this section:

(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 subdivision (b) of Section 207, or kidnapping as punishable pursuant to subdivision (d) of Section 208, paragraph (1), (2), (3), (4), or (6) of subdivision (a) of Section 261, Section 264.1, 266c, or 267, paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of, Section 286, Section 288 or 288.5, paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of, Section 288a, subdivision (a) of Section 289, or Section 647.6.

(4) Prior to discharge or parole from the Department of the Youth Authority, any person who is subject to registration under this subdivision 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.

(5) 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 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 campus of the University of California or California State University, 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 offender's 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. 1.5. Section 290 of the Penal Code is amended to read:

290. (a) (1) (A) Every person described in paragraph (2), for the rest of his or her life while residing in, or, if he or she has no residence, while located within California, shall be required to register with the chief of police of the city in which he or she is residing, or if he or she has no residence, is located, or the sheriff of the county if he or she is residing, or if he or she has no residence, is located, in an unincorporated area or city that has no police department, and, additionally, with the chief of police of a campus of the University of California, the California State University, or community college if he or she is residing, or if he or she has no residence, is located 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, if he or she has no residence, is located.

(B) If the person who is registering has no residence address, he or she shall update his or her registration no less than once every 90 days in addition to the requirement in subparagraph (A), on a form as may be required by the Department of Justice, with the entity or entities described in subparagraph (A) in whose jurisdiction he or she is located at the time he or she is updating the registration.

(C) Beginning on his or her first birthday following registration or change of address, the person shall be required to register annually, within five working days of his or her birthday, to update his or her

registration with the entities described in subparagraph (A), including, verifying his or her name and address, or temporary location, on a form as may be required by the Department of Justice.

(D) In addition, every person who is a sexually violent predator, as defined in Section 6600 of the Welfare and Institutions Code, shall, after his or her release from custody, verify his or her address every 90 days in a manner established by the Department of Justice.

(E) No entity shall require a person to pay a fee to register or update his or her registration pursuant to this section.

(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 Section 207 or 209 committed with intent to violate Section 261, 286, 288, 288a, or 289, 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, subdivision (b) of Section 266h, subdivision (b) of Section 266i, 266j, 267, 269, 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 (c) of Section 653f, subdivision 1 or 2 of Section 314, any offense involving lewd or 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 or any person who has been found guilty in the guilt phase of a trial for an offense for which registration is required by this section but who has been found not guilty by reason of insanity in the sanity phase of the trial.

(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.

(F) (i) Notwithstanding any other subdivision, a person who was convicted before January 1, 1976, under subdivision (a) of Section 286, or Section 288a, shall not be required to register pursuant to this section for that conviction if the conviction was for conduct between consenting adults that was decriminalized by Chapter 71 of the Statutes of 1975 or Chapter 1139 of the Statutes of 1976. The Department of Justice shall remove that person from the Sex Offender Registry, and the person is discharged from his or her duty to register pursuant to the following procedure:

(I) The person submits to the Department of Justice official documentary evidence, including court records or police reports, which demonstrate that the person's conviction pursuant to either of those sections was for conduct between consenting adults that was decriminalized; or

(II) The person submits to the department a declaration stating that the person's conviction pursuant to either of those sections was for consensual conduct between adults that has been decriminalized. The declaration shall be confidential and not a public record, and shall include the person's name, address, telephone number, date of birth, and a summary of the circumstances leading to the conviction, including the date of the conviction and county of the occurrence.

(III) The department shall determine whether the person's conviction was for conduct between consensual adults that has been decriminalized. If the conviction was for consensual conduct between adults that has been decriminalized, and the person has no other offenses for which he or she is required to register pursuant to this section, the department shall, within 60 days of receipt of those documents, notify the person that he or she is relieved of the duty to register, and shall notify the local law enforcement agency with which the person is registered that he or she has been relieved of the duty to register. The local law enforcement agency shall remove the person's registration from its files within 30 days of receipt of notification. If the documentary or other evidence submitted is insufficient to establish the person's claim, the department shall, within 60 days of receipt of those documents, notify the person that his or her claim cannot be established, and that the person shall continue to register pursuant to this section. The department shall provide, upon the person's request, any information relied upon by the department in making its determination that the person shall continue to register pursuant to this section. Any person whose claim has been denied by the department pursuant to this clause may

petition the court to appeal the department's denial of the person's claim.

(ii) On or before July 1, 1998, the department shall make a report to the Legislature concerning the status of persons who may come under the provisions of this subparagraph, including the number of persons who were convicted before January 1, 1976, under subdivision (a) of Section 286 or Section 288a and are required to register under this section, the average age of these persons, the number of these persons who have any subsequent convictions for a registerable sex offense, and the number of these persons who have sought successfully or unsuccessfully to be relieved of their duty to register under this section.

(b) (1) Any person who 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.

(2) 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 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 probation department, and a probation officer 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 probation officer 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 probation officer 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 juvenile 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 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 paragraph (3), shall be subject to registration under the procedures of this section.

(3) Any person described in this subdivision who committed an offense in violation of any of the following provisions shall be required to register pursuant to this section:

(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 paragraph (1), (2), (3), (4), or (6) of subdivision (a) of Section 261, Section 264.1, 266c, or 267, paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of, Section 286, Section 288 or 288.5, paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of, Section 288a, subdivision (a) of Section 289, or Section 647.6.

(C) A violation of Section 207 or 209 committed with the intent to violate Section 261, 286, 288, 288a, or 289.

(4) Prior to discharge or parole from the Department of the Youth Authority, any person who is subject to registration under this subdivision 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.

(5) 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) On or after January 1, 1998, upon incarceration, placement, or commitment, or prior to release on probation, any person who is required to register under this section shall preregister. The preregistering official shall be the admitting officer at the place of incarceration, placement, or commitment, or the probation officer if the person is to be released on probation. The preregistration shall consist of both of the following:

(A) A preregistration statement in writing, signed by the person, giving information that may be required by the Department of Justice.

(B) The fingerprints and photograph of the person.

(C) Any person who is preregistered pursuant to this subdivision is required to be preregistered only once.

(2) A person described in paragraph (2) of subdivision (a) shall register, or reregister if the person has previously registered, upon release from incarceration, placement, or commitment, pursuant to paragraph (1) of subdivision (a). 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, regularly driven by, or registered in the name of the person.

(D) A voice sample suitable for voice identification and verification, if the person is required to register for voice identification and verification pursuant to subdivision (f).

(E) Notice to the person that, in addition to the requirements of paragraph (4), he or she may have a duty to register in any other state where he or she may relocate.

(3) Within three days thereafter, the preregistering official or the registering law enforcement agency or agencies shall forward the statement, fingerprints, photograph, and vehicle license plate number, if any, and voice sample, if required pursuant to subdivision (f), to the Department of Justice.

(4) (A) If any person who is required to register pursuant to this section changes his or her residence address, the person shall inform, in writing within five working days, the law enforcement agency or agencies with which he or she last registered of the new address. The law enforcement agency or agencies shall, within three days after receipt of this information, forward a copy of the change of address information 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.

(B) If any person who is required to register pursuant to this section changes his or her name, the person shall inform, in person, the law enforcement agency or agencies with which he or she is currently registered within five working days. The law enforcement agency or agencies shall forward a copy of this information to the Department of Justice within three days of its receipt.

(f) (1) In addition to the requirements under this section, every person described in paragraph (2), for the rest of his or her life, as a condition of his or her release, shall comply with the voice identification and verification requirement.

(2) Any person who is required to register pursuant to paragraph (2) of subdivision (a) after June 1, 1998, who has been identified as a high-risk sex offender pursuant to subdivision (n) shall be required to comply with the voice identification and verification requirement prior to release, discharge, or parole, whichever occurs first.

(3) Any person who is required to register pursuant to paragraph (2) of subdivision (a) prior to June 1, 1998, who has been identified as a high-risk sex offender pursuant to subdivision (n) shall be required to comply with the voice identification and verification requirement at the time of his or her next registration after receipt of notice of the requirement to register pursuant to this subdivision. Notice shall be provided in the same manner as notice of other registration requirements of this section.

(4) The requirements imposed by paragraphs (2) and (3) do not apply to a person whose obligation to register has been terminated.

(5) The Department of Justice shall determine the location of persons who are high-risk sex offenders as described in subdivision (n) by means of voice identification and verification. The department shall forward data derived from this tracking program, including data regarding any change of address, to the local law enforcement agency or agencies that have current jurisdiction over the person's residence.

(6) Persons required to register pursuant to this subdivision shall be required to register on a weekly basis by calling the toll-free number provided to the registrant at the time he or she was originally registered for the voice identification and verification system. The telephone calls shall be placed from one of the following places:

(A) The registrant's residence.

(B) The registrant's place of employment.

(C) Any law enforcement office.

(7) The department shall obtain the voice identification and verification system through the competitive bidding process pursuant to Section 10340 of the Public Contract Code.

(8) A summary of the findings of the success of the voice identification and verification program shall be made available to the

Legislature and the appropriate law enforcement agencies. The report shall include, but need not be limited to, all of the following:

(A) The total number of persons required to register pursuant to this subdivision, and the number of those who failed to comply with the registration requirement provided by this subdivision compared with the number of persons who failed to register pursuant to the general registration requirements of Section 290.

(B) The cost of administering the voice identification and verification program, including the cost to local law enforcement agencies and any cost savings provided by the use of the voice identification and verification program, including any savings to law enforcement agencies.

(C) A breakdown of the actions taken by the department or local law enforcement agencies in response to any failure to register pursuant to this section.

(D) An evaluation of equipment performance and reliability, including, but not limited to, data on the number and types of instances in which:

(i) An offender reports specific system problems or failures.

(ii) Specific system problems or failures are noted by the department or local law enforcement.

(iii) A failure to register is found by a court to be the result of a system problem or failure.

(9) The voice identification and verification requirement described in this subdivision shall remain in effect only until January 1, 2003, and as of that date is inoperative, unless a later enacted statute, that is enacted before January 1, 2003, deletes or extends that date.

(10) In addition to any other penalty, an offender who is a high-risk sex offender as described in subdivision (n), who is found to be in violation of the general registration requirements of this section may be required to comply with the voice identification and verification requirement.

(g) (1) Any person who is required to register under this section based on a misdemeanor conviction who willfully violates any requirement of this section is guilty of a misdemeanor punishable by imprisonment in a county jail not exceeding one year.

(2) Except as provided in paragraph (5), any person who is required to register under this section based on a felony conviction who willfully violates any requirement of this section or who has a prior conviction for the offense of failing to register under this section and who subsequently and willfully violates any requirement of this section is guilty of a felony and shall be punished by imprisonment in the state prison for 16 months, or two or three years.

If probation is granted or if the imposition or execution of sentence is suspended, it shall be a condition of the probation or suspension that the person serve at least 90 days in a county jail. The penalty

described in this paragraph shall apply whether or not the person has been released on parole or has been discharged from parole.

(3) Any person determined to be a mentally disordered sex offender or who has been found guilty in the guilt phase of trial for an offense for which registration is required under this section, but who has been found not guilty by reason of insanity in the sanity phase of the trial, who willfully violates any requirement of this section is guilty of a misdemeanor and shall be punished by imprisonment in a county jail not exceeding one year. For any second or subsequent willful violation of any requirement of this section, the person is guilty of a felony and shall be punished by imprisonment in the state prison for 16 months, or two or three years.

(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.

(5) Any person who, as a sexually violent predator, as defined in Section 6600 of the Welfare and Institutions Code, fails to verify his or her registration every 90 days as required pursuant to subparagraph (D) of paragraph (1) of subdivision (a), shall be punished by imprisonment in the state prison, or in a county jail not exceeding one year.

(6) In addition to any other penalty imposed under this subdivision, any person who is required pursuant to subparagraph (B) of paragraph (1) of subdivision (a) to update his or her registration every 90 days and willfully fails to update his or her registration is guilty of a misdemeanor and shall be punished by imprisonment in a county jail not exceeding six months. Any subsequent violation of this requirement that persons described in subdivision (B) of paragraph (1) of subdivision (a) shall update their registration every 90 days is also a misdemeanor and shall be punished by imprisonment in a county jail not exceeding six months.

(7) Any person who is required to register under this section who willfully violates any requirement of this section is guilty of a continuing offense.

(8) (A) Notwithstanding paragraphs (1), (2), and (3), any person required to register for voice identification and verification who willfully violates a voice identification and verification registration requirement may only be guilty of a misdemeanor.

(B) It shall not be determined to be a willful violation of this registration requirement if a person is unable to register due to that person's physical incapacity.

(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, fingerprints, and voice sample 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, 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.

(2) Every person who, as a sexually violent predator, as defined in Section 6600 of the Welfare and Institutions Code, is required to verify his or her registration every 90 days, shall be notified wherever he or she next registers of his or her increased registration obligations. This notice shall be provided in writing by the registering agency or agencies. Failure to receive this notice shall be a defense against the penalties prescribed by paragraph (5) of subdivision (g).

(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 designated law enforcement entity 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 specified in paragraph (1) of subdivision (a) of Section 290.4 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.

(v) Has been adjudicated a sexually violent predator pursuant to Article 4 (commencing with Section 6600) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code.

(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, or Section 203, 206, 207, or 236, provided that the offense is a felony, subdivision (a) of Section 273a, Section 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, or 314, Section 459, provided the offense is of the first degree, Section 597 or 646.9, subdivision (d), (h), or (i) of Section 647, Section 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) "Designated law enforcement entity" 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 campus of the University of California or California State University, 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 designated law enforcement entity 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 designated law enforcement entity 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 offender's 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 Section 290.4 shall maintain records of those persons requesting to view the CD-ROM or other electronic media for a minimum of five years. Agencies disseminating information to the public pursuant to subdivision (n) shall maintain records of the means and dates of dissemination for a minimum of five years.

(p) Law enforcement agencies and employees of law enforcement agencies shall be immune from liability for good faith conduct under this section. For the purposes of this section, "law enforcement agency" means the Attorney General, any district attorney, and any state agency expressly authorized by statute to investigate or prosecute law violators.

(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 this section, 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 this section, regardless of when it was committed.

SEC. 2. 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 paragraph (5) 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, and 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 and 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, municipal police departments of cities 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 departments of cities 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 the purpose of the release of information is to allow members of the public to protect themselves and their children from sex offenders, and 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" telephone 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" telephone 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" telephone 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" telephone 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, or 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 or Section 290, or any other statute expressly authorizing it.

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 a county jail not to exceed six months or by a fine not exceeding one thousand dollars ($1,000), or by both. This subdivision shall 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, 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" telephone 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 shall be 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 shall be 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 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.

(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. 2.1. 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 Section 207 or 209 committed with the intent to violate Section 261, 286, 288, 288a, or 289; 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 paragraph (5) 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, a photograph, a physical description, gender, race, date of birth, the criminal history, and 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 and 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, municipal police departments of cities 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 departments of cities 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 the purpose of the release of information is to allow members of the public to protect themselves and their children from sex offenders, and 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" telephone 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" telephone 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" telephone 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" telephone 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, or 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 or Section 290, or any other statute expressly authorizing it.

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 a county jail not to exceed six months or by a fine not exceeding one thousand dollars ($1,000), or by both. This subdivision shall 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, 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" telephone 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 shall be 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 shall be 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 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.

(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. 2.2. 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 266j; Section 267; paragraph (1) of subdivision (b) of Section 286, provided that the offense is a felony; paragraph (2) of subdivision (b), subdivision (c), (d), (f), (g), (i), (j), or (k) of Section 286; Section 288; paragraph (1) of subdivision (b) of Section 288a, provided that the offense is a felony; 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 or any offense which, if committed or attempted in this state, would have been punishable as one or more of the offenses described in this section. This requirement shall not be applied to a person whose duty to register has been terminated pursuant to paragraph (5) 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, and 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 and 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, municipal police departments of cities 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 departments of cities 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, 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 the purpose of the release of information is to allow members of the public to protect themselves and their children from sex offenders, and 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 designated 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" telephone 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" telephone 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" telephone 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" telephone 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 or Section 290, or any other statute expressly authorizing it.

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 a county jail not to exceed six months or by a fine not exceeding one thousand dollars ($1,000), or by both. This subdivision shall 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, court case, or as otherwise authorized by subdivision (n) of Section 290. This subdivision shall not prohibit copying information by handwriting.

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 information, for purposes relating to any of the following, and that is 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" telephone 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 shall be 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) Any law enforcement agency and employees of law enforcement agencies shall be immune from liability for good faith conduct under this section. For the purposes of this section, "law enforcement agency" means the Attorney General, any district attorney, and any state agency expressly authorized by statute to investigate or prosecute law violators.

(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 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.

(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. 2.3. 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 paragraph (5) 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, and 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 and 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, municipal police departments of cities 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 departments of cities 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 the purpose of the release of information is to allow members of the public to protect themselves and their children from sex offenders, and 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" telephone 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" telephone 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" telephone 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" telephone 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 or Section 290, or any other statute expressly authorizing it.

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 a county jail not to exceed six months, or by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine. This subdivision shall 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, 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 by both that imprisonment and fine.

(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" telephone 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 shall be 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) Law enforcement agencies, employees of law enforcement agencies, and state officials shall be immune from liability for good faith conduct under this section.

(j) 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.

(k) 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.

(*l*) No later than December 31, 1998, the Department of Justice shall prepare an informational pamphlet that shall be mailed to any member of the public who makes an inquiry using the "900" telephone number required by this section and who provides an address. The pamphlet shall provide basic information concerning appropriate steps parents, guardians, and other responsible adults can take to ensure a child is safe from a suspected child molester, including, but not limited to, how to identify suspicious activity by an adult, common facts and myths about child molesters, and how to obtain additional help and information. A notice to callers to the "900" telephone number that they will receive the pamphlet, if an address is provided, shall be included in the preamble required by this section.

(m) This section shall remain operative only until January 1, 2001, and as of that date is repealed unless a later enacted statute, which becomes effective on or before that date, deletes or extends that date.

SEC. 2.4. 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 Section 207 or 209 committed with the intent to violate Section 261, 286, 288, 288a, or 289; 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 266j; Section 267; paragraph (1) of subdivision (b) of Section 286, provided that the offense is a felony; paragraph (2) of subdivision (b), subdivision (c), (d), (f), (g), (i), (j), or (k) of Section 286; Section 288; paragraph (1) of subdivision (b) of Section 288a, provided that the offense is a felony; 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 or any offense which, if committed or attempted in this state, would have been punishable as one or more of the offenses described in this section. This

requirement shall not be applied to a person whose duty to register has been terminated pursuant to paragraph (5) 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, and 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 and 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, municipal police departments of cities 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 departments of cities 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, 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 the purpose of the release of information is to allow members of the public to protect themselves and their children from sex offenders, and 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 designated 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" telephone 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" telephone 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" telephone 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" telephone 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 or Section 290, or any other statute expressly authorizing it.

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 a county jail not to exceed six months or by a fine not exceeding one thousand dollars ($1,000), or by both. This subdivision shall 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, court case, or as

otherwise authorized by subdivision (n) of Section 290. This subdivision shall not prohibit copying information by handwriting.

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 information, for purposes relating to any of the following, and that is 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" telephone 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 shall be 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) Any law enforcement agency and employees of law enforcement agencies shall be immune from liability for good faith conduct under this section. For the purposes of this section, "law enforcement agency" means the Attorney General, any district attorney, and any state agency expressly authorized by statute to investigate or prosecute law violators.

(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 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.

(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. 2.5. 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 Section 207 or 209 committed with the intent to violate Section 261, 286, 288, 288a, or 289; 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 paragraph (5) 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, and 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 and 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, municipal police departments of cities 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 departments of cities 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 the purpose of the release of information is to allow members of the public to

protect themselves and their children from sex offenders, and 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" telephone 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" telephone 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" telephone 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" telephone 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 or Section 290, or any other statute expressly authorizing it.

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 a county jail not to exceed six months, or by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine. This subdivision shall 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, 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 by both that imprisonment and fine.

(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" telephone 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 shall be 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) Law enforcement agencies, employees of law enforcement agencies, and state officials shall be immune from liability for good faith conduct under this section.

(j) 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.

(k) 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.

(*l*) No later than December 31, 1998, the Department of Justice shall prepare an informational pamphlet that shall be mailed to any member of the public who makes an inquiry using the “900” telephone number required by this section and who provides an address. The pamphlet shall provide basic information concerning appropriate steps parents, guardians, and other responsible adults can take to ensure a child is safe from a suspected child molester, including, but not limited to, how to identify suspicious activity by an adult, common facts and myths about child molesters, and how to obtain additional help and information. A notice to callers to the “900” telephone number that they will receive the pamphlet, if an

address is provided, shall be included in the preamble required by this section.

(m) This section shall remain operative only until January 1, 2001, and as of that date is repealed unless a later enacted statute, which becomes effective on or before that date, deletes or extends that date.

SEC. 2.6. 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 266j; Section 267; paragraph (1) of subdivision (b) of Section 286, provided that the offense is a felony; paragraph (2) of subdivision (b), subdivision (c), (d), (f), (g), (i), (j), or (k) of Section 286; Section 288; paragraph (1) of subdivision (b) of Section 288a, provided that the offense is a felony; 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 or any offense which, if committed or attempted in this state, would have been punishable as one or more of the offenses described in this section. This requirement shall not be applied to a person whose duty to register has been terminated pursuant to paragraph (5) 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, and 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 and 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, municipal police departments of cities 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 departments of cities 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, 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 the purpose of the release of information is to allow members of the public to protect themselves and their children from sex offenders, and 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 designated 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” telephone 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” telephone 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” telephone 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” telephone 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 or Section 290, or any other statute expressly authorizing it.

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 a county jail not to exceed six months or by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine. This subdivision shall 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, court case, or as otherwise authorized by subdivision (n) of Section 290. This subdivision shall not prohibit copying information by handwriting.

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 by both that imprisonment and fine.

(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 information, for purposes relating to any

of the following, and that is 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" telephone 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 shall be 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) Any law enforcement agency and employees of law enforcement agencies shall be immune from liability for good faith conduct under this section. For the purposes of this section, "law enforcement agency" means the Attorney General, any district attorney, and any state agency expressly authorized by statute to investigate or prosecute law violators.

(j) 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.

(k) 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.

(*l*) No later than December 31, 1998, the Department of Justice shall prepare an informational pamphlet that shall be mailed to any member of the public who makes an inquiry using the "900" telephone number required by this section and who provides an address. The pamphlet shall provide basic information concerning appropriate steps parents, guardians, and other responsible adults can take to ensure a child is safe from a suspected child molester, including, but not limited to, how to identify suspicious activity by an adult, common facts and myths about child molesters, and how to obtain additional help and information. A notice to callers to the "900" telephone number that they will receive the pamphlet, if an address is provided, shall be included in the preamble required by this section.

(m) This section shall remain operative only until January 1, 2001, and as of that date is repealed unless a later enacted statute, which becomes effective on or before that date, deletes or extends that date.

SEC. 2.7. 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 Section 207 or 209 committed with the intent to violate Section 261, 286, 288, 288a, or 289; 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 266j; Section 267; paragraph (1) of subdivision (b) of Section 286, provided that the offense is a felony; paragraph (2) of subdivision (b), subdivision (c), (d), (f), (g), (i), (j), or (k) of Section 286; Section 288; paragraph (1) of subdivision (b) of Section 288a, provided that the offense is a felony; 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 or any offense which, if committed or attempted in this state, would have been punishable as one or more of the offenses described in this section. This requirement shall not be applied to a person whose duty to register has been terminated pursuant to paragraph (5) 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, and 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 and 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, municipal police departments of cities 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 departments of cities 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, 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 the purpose of the release of information is to allow members of the public to protect themselves and their children from sex offenders, and 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 designated 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" telephone 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" telephone 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" telephone 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" telephone 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 or Section 290, or any other statute expressly authorizing it.

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 a county jail not to exceed six months or by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine. This subdivision shall 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, court case, or as otherwise authorized by subdivision (n) of Section 290. This subdivision shall not prohibit copying information by handwriting.

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 by both that imprisonment and fine.

(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 information, for purposes relating to any

of the following, and that is 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" telephone 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 shall be 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) Any law enforcement agency and employees of law enforcement agencies shall be immune from liability for good faith conduct under this section. For the purposes of this section, "law enforcement agency" means the Attorney General, any district attorney, and any state agency expressly authorized by statute to investigate or prosecute law violators.

(j) 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.

(k) 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.

(*l*) No later than December 31, 1998, the Department of Justice shall prepare an informational pamphlet that shall be mailed to any member of the public who makes an inquiry using the "900" telephone number required by this section and who provides an address. The pamphlet shall provide basic information concerning appropriate steps parents, guardians, and other responsible adults can take to ensure a child is safe from a suspected child molester, including, but not limited to, how to identify suspicious activity by an adult, common facts and myths about child molesters, and how to obtain additional help and information. A notice to callers to the "900" telephone number that they will receive the pamphlet, if an address is provided, shall be included in the preamble required by this section.

(m) This section shall remain operative only until January 1, 2001, and as of that date is repealed unless a later enacted statute, which becomes effective on or before that date, deletes or extends that date.

SEC. 3. Section 1.5 of this bill incorporates amendments to Section 290 of the Penal Code proposed by this bill and AB 59, AB 213, AB 290, AB 1303, SB 882, and SB 1254. It shall only become operative if (1) all seven bills are enacted and become effective on or before January 1, 1998, (2) each bill amends Section 290 of the Penal Code, and (3) this bill is enacted after AB 59, AB 213, AB 290, AB 1303, SB 882, and SB 1254, in which case Section 290 of the Penal Code as amended by AB 290 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. (a) Section 2.1 of this bill incorporates amendments to Section 290.4 of the Penal Code proposed by both this bill and AB 59. 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 290.4 of the Penal Code, (3) AB 290 and SB 1078 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after AB 59, in which case Sections 2, 2.2, 2.3, 2.4, 2.5, 2.6, and 2.7 of this bill shall not become operative.

(b) Section 2.2 of this bill incorporates amendments to Section 290.4 of the Penal Code proposed by both this bill and AB 290. 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 290.4 of the Penal Code, (3) AB 59 and SB 1078 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after AB 290, in which case Section 290.4 of the Penal Code as amended by AB 290 shall remain operative only until the operative date of this bill and Sections 2, 2.1, 2.3, 2.4, 2.5, 2.6, and 2.7 of this bill shall not become operative.

(c) Section 2.3 of this bill incorporates amendments to Section 290.4 of the Penal Code proposed by both this bill and SB 1078. 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 290.4 of the Penal Code, (3) AB 59 and AB 290 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after SB 1078, in which case Sections 2, 2.1, 2.2, 2.4, 2.5, 2.6, and 2.7 of this bill shall not become operative.

(d) Section 2.4 of this bill incorporates amendments to Section 290.4 of the Penal Code proposed by this bill, AB 59, and AB 290. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 1998, (2) each bill amends Section 290.4 of the Penal Code, (3) SB 1078 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 59 and AB 290, in which case Section 290.4 of the Penal Code as amended by AB 290 shall remain operative only until the operative

date of this bill and Sections 2, 2.1, 2.2, 2.3, 2.5, 2.6, and 2.7 of this bill shall not become operative.

(e) Section 2.5 of this bill incorporates amendments to Section 290.4 of the Penal Code proposed by this bill, AB 59, and SB 1078. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 1998, (2) each bill amends Section 290.4 of the Penal Code, (3) AB 290 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 59 and SB 1078, in which case Sections 2, 2.1, 2.2, 2.3, 2.4, 2.6, and 2.7 of this bill shall not become operative.

(f) Section 2.6 of this bill incorporates amendments to Section 290.4 of the Penal Code proposed by this bill, AB 290, and SB 1078. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 1998, (2) each bill amends Section 290.4 of the Penal Code, (3) AB 59 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 290 and SB 1078, in which case Section 290.4 of the Penal Code as amended by AB 290 shall remain operative only until the operative date of this bill and Sections 2, 2.1, 2.2, 2.3, 2.4, 2.5, and 2.7 of this bill shall not become operative.

(g) Section 2.7 of this bill incorporates amendments to Section 290.4 of the Penal Code proposed by this bill, AB 59, AB 290, and SB 1078. It shall only become operative if (1) all four bills are enacted and become effective on or before January 1, 1998, (2) each bill amends Section 290.4 of the Penal Code, and (3) this bill is enacted after AB 59, AB 290, and SB 1078, in which case Section 290.4 of the Penal Code as amended by AB 290 shall remain operative only until the operative date of this bill and Sections 2, 2.1, 2.2, 2.3, 2.4, 2.5, and 2.6 of this bill shall not become operative.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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

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## CHAPTER 820

An act to amend Section 290 of the Penal Code, relating to sex offenders.

[Approved by Governor October 8, 1997. Filed with
Secretary of State October 9, 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) (A) Every person described in paragraph (2), for the rest of his or her life while residing in, or, if he or she has no residence, while located within California, shall be required to register with the chief of police of the city in which he or she is residing, or, if he or she has no residence, is located, or the sheriff of the county if he or she is residing, or, if he or she has no residence, is located, 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 residing, or, if he or she has no residence, is located 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, if he or she has no residence, is located.

(B) If the person who is registering has no residence address, he or she shall update his or her registration no less than once every 90 days in addition to the requirement in subparagraph (A), on a form as may be required by the Department of Justice, with the entity or entities described in subparagraph (A) in whose jurisdiction he or she is located at the time he or she is updating the registration.

(C) Every person required to register pursuant to this section also shall be required to register annually, within five working days of his or her birthday, to update his or her registration with the entities described in subparagraph (A), including verifying his or her name and address, or temporary location, 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 which, 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 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.

(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.

(5) In addition to any other penalty imposed under this subdivision, any person who is required pursuant to subparagraph (B) of paragraph (1) of subdivision (a) to update his or her registration every 90 days and willfully fails to update his or her registration is guilty of a misdemeanor and shall be punished by imprisonment in a county jail not exceeding six months. Any subsequent violation of this requirement that persons described in subdivision (B) of paragraph (1) of subdivision (a) shall update their registration every 90 days is also a misdemeanor and shall be punished by imprisonment in a county jail not exceeding six months.

(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. 1.5. Section 290 of the Penal Code is amended to read:

290. (a) (1) (A) Every person described in paragraph (2), for the rest of his or her life while residing in, or, if he or she has no residence, while located within California, shall be required to register with the chief of police of the city in which he or she is residing, or if he or she has no residence, is located, or the sheriff of the county if he or she is residing, or if he or she has no residence, is located, in an unincorporated area or city that has no police department, and, additionally, with the chief of police of a campus of the University of California, the California State University, or community college if he or she is residing, or if he or she has no residence, is located 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, if he or she has no residence, is located.

(B) If the person who is registering has no residence address, he or she shall update his or her registration no less than once every 90 days in addition to the requirement in subparagraph (A), on a form as may be required by the Department of Justice, with the entity or entities described in subparagraph (A) in whose jurisdiction he or she is located at the time he or she is updating the registration.

(C) Beginning on his or her first birthday following registration or change of address, the person shall be required to register annually, within five working days of his or her birthday, to update his or her registration with the entities described in subparagraph (A), including, verifying his or her name and address, or temporary location, on a form as may be required by the Department of Justice.

(D) In addition, every person who is a sexually violent predator, as defined in Section 6600 of the Welfare and Institutions Code, shall, after his or her release from custody, verify his or her address every 90 days in a manner established by the Department of Justice.

(E) No entity shall require a person to pay a fee to register or update his or her registration pursuant to this section.

(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 Section 207 or 209 committed with intent to violate Section 261, 286, 288, 288a, or 289, 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, subdivision (b) of Section 266h, subdivision (b) of Section 266i, 266j, 267, 269, 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 (c) of Section 653f, subdivision 1 or 2 of Section 314, any offense involving lewd or 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 or any person who has been found guilty in the guilt phase of a trial for an offense for which registration is required by this section but who has been found not guilty by reason of insanity in the sanity phase of the trial.

(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.

(F) (i) Notwithstanding any other subdivision, a person who was convicted before January 1, 1976, under subdivision (a) of Section 286, or Section 288a, shall not be required to register pursuant to this section for that conviction if the conviction was for conduct between consenting adults that was decriminalized by Chapter 71 of the Statutes of 1975 or Chapter 1139 of the Statutes of 1976. The Department of Justice shall remove that person from the Sex Offender Registry, and the person is discharged from his or her duty to register pursuant to the following procedure:

(I) The person submits to the Department of Justice official documentary evidence, including court records or police reports, which demonstrate that the person's conviction pursuant to either of those sections was for conduct between consenting adults that was decriminalized; or

(II) The person submits to the department a declaration stating that the person's conviction pursuant to either of those sections was for consensual conduct between adults that has been decriminalized. The declaration shall be confidential and not a public record, and shall include the person's name, address, telephone number, date of birth, and a summary of the circumstances leading to the conviction, including the date of the conviction and county of the occurrence.

(III) The department shall determine whether the person's conviction was for conduct between consensual adults that has been decriminalized. If the conviction was for consensual conduct between adults that has been decriminalized, and the person has no other offenses for which he or she is required to register pursuant to this section, the department shall, within 60 days of receipt of those documents, notify the person that he or she is relieved of the duty to register, and shall notify the local law enforcement agency with which the person is registered that he or she has been relieved of the duty to register. The local law enforcement agency shall remove the person's registration from its files within 30 days of receipt of notification. If the documentary or other evidence submitted is insufficient to establish the person's claim, the department shall, within 60 days of receipt of those documents, notify the person that his or her claim cannot be established, and that the person shall continue to register pursuant to this section. The department shall provide, upon the person's request, any information relied upon by the department in making its determination that the person shall continue to register pursuant to this section. Any person whose claim

has been denied by the department pursuant to this clause may petition the court to appeal the department's denial of the person's claim.

(ii) On or before July 1, 1998, the department shall make a report to the Legislature concerning the status of persons who may come under the provisions of this subparagraph, including the number of persons who were convicted before January 1, 1976, under subdivision (a) of Section 286 or Section 288a and are required to register under this section, the average age of these persons, the number of these persons who have any subsequent convictions for a registerable sex offense, and the number of these persons who have sought successfully or unsuccessfully to be relieved of their duty to register under this section.

(b) (1) Any person who 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.

(2) 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 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 probation department, and a

probation officer 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 probation officer 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 probation officer 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 juvenile 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 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 paragraph (3), shall be subject to registration under the procedures of this section.

(3) Any person described in this subdivision who committed an offense in violation of any of the following provisions shall be required to register pursuant to this section:

(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 paragraph (1), (2), (3), (4), or (6) of subdivision (a) of Section 261, Section 264.1, 266c, or 267, paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of, Section 286, Section 288 or 288.5, paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of, Section 288a, subdivision (a) of Section 289, or Section 647.6.

(C) A violation of Section 207 or 209 committed with the intent to violate Section 261, 286, 288, 288a, or 289.

(4) Prior to discharge or parole from the Department of the Youth Authority, any person who is subject to registration under this subdivision 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.

(5) 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) On or after January 1, 1998, upon incarceration, placement, or commitment, or prior to release on probation, any person who is required to register under this section shall preregister. The preregistering official shall be the admitting officer at the place of incarceration, placement, or commitment, or the probation officer if the person is to be released on probation. The preregistration shall consist of both of the following:

(A) A preregistration statement in writing, signed by the person, giving information that may be required by the Department of Justice.

(B) The fingerprints and photograph of the person.

(C) Any person who is preregistered pursuant to this subdivision is required to be preregistered only once.

(2) A person described in paragraph (2) of subdivision (a) shall register, or reregister if the person has previously registered, upon release from incarceration, placement, or commitment, pursuant to paragraph (1) of subdivision (a). 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, regularly driven by, or registered in the name of the person.

(D) Notice to the person that, in addition to the requirements of paragraph (4), he or she may have a duty to register in any other state where he or she may relocate.

(3) Within three days thereafter, the preregistering official or 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) (1) If any person who is required to register pursuant to this section changes his or her residence address, the person shall inform, in writing within five working days, the law enforcement agency or agencies with which he or she last registered of the new address. The law enforcement agency or agencies shall, within three days after receipt of this information, forward a copy of the change of address information 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.

(2) If any person who is required to register pursuant to this section changes his or her name, the person shall inform, in person, the law enforcement agency or agencies with which he or she is currently registered within five working days. The law enforcement agency or agencies shall forward a copy of this information to the Department of Justice within three days of its receipt.

(g) (1) Any person who is required to register under this section based on a misdemeanor conviction who willfully violates any requirement of this section is guilty of a misdemeanor punishable by imprisonment in a county jail not exceeding one year.

(2) Except as provided in paragraph (5), any person who is required to register under this section based on a felony conviction who willfully violates any requirement of this section or who has a prior conviction for the offense of failing to register under this section and who subsequently and willfully violates any requirement of this section is guilty of a felony and shall be punished by imprisonment in the state prison for 16 months, or two or three years.

If probation is granted or if the imposition or execution of sentence is suspended, it shall be a condition of the probation or suspension that the person serve at least 90 days in a county jail. The penalty described in this paragraph shall apply whether or not the person has been released on parole or has been discharged from parole.

(3) Any person determined to be a mentally disordered sex offender or who has been found guilty in the guilt phase of trial for an offense for which registration is required under this section, but who has been found not guilty by reason of insanity in the sanity phase of the trial, who willfully violates any requirement of this section is guilty of a misdemeanor and shall be punished by imprisonment in a county jail not exceeding one year. For any second or subsequent willful violation of any requirement of this section, the person is guilty of a felony and shall be punished by imprisonment in the state prison for 16 months, or two or three years.

(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.

(5) Any person who, as a sexually violent predator, as defined in Section 6600 of the Welfare and Institutions Code, fails to verify his or her registration every 90 days as required pursuant to subparagraph (D) of paragraph (1) of subdivision (a), shall be punished by imprisonment in the state prison, or in a county jail not exceeding one year.

(6) In addition to any other penalty imposed under this subdivision, any person who is required pursuant to subparagraph (B) of paragraph (1) of subdivision (a) to update his or her registration every 90 days and willfully fails to update his or her registration is guilty of a misdemeanor and shall be punished by imprisonment in a county jail not exceeding six months. Any subsequent violation of this requirement that persons described in subdivision (B) of paragraph (1) of subdivision (a) shall update their registration every 90 days is also a misdemeanor and shall be punished by imprisonment in a county jail not exceeding six months.

(7) Any person who is required to register under this section who willfully violates any requirement of this section is guilty of a continuing offense.

(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, 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.

(2) Every person who, as a sexually violent predator, as defined in Section 6600 of the Welfare and Institutions Code, is required to verify his or her registration every 90 days, shall be notified wherever he or she next registers of his or her increased registration obligations. This notice shall be provided in writing by the registering agency or agencies. Failure to receive this notice shall be a defense against the penalties prescribed by paragraph (5) of subdivision (g).

(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 designated law enforcement entity 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 specified in paragraph (1) of subdivision (a) of Section 290.4 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.

(v) Has been adjudicated a sexually violent predator pursuant to Article 4 (commencing with Section 6600) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code.

(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, or Section 203, 206, 207, or 236, provided that the offense is a felony, subdivision (a) of Section 273a, Section 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, or 314, Section 459, provided the offense is of the first degree, Section 597 or 646.9, subdivision (d), (h), or (i) of Section 647, Section 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) "Designated law enforcement entity" 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 campus of the University of California or California State University, 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 designated law enforcement entity 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 designated law enforcement entity 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 offender's 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 Section 290.4 shall maintain records of those persons requesting to view the CD-ROM or other electronic media for a minimum of five years. Agencies disseminating information to the public pursuant to subdivision (n) shall maintain records of the means and dates of dissemination for a minimum of five years.

(p) Law enforcement agencies and employees of law enforcement agencies shall be immune from liability for good faith conduct under this section. For the purposes of this section, "law enforcement agency" means the Attorney General, any district attorney, and any state agency expressly authorized by statute to investigate or prosecute law violators.

(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 this section, 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 this section, regardless of when it was committed.

SEC. 2. Section 1.5 of this bill incorporates amendments to Section 290 of the Penal Code proposed by this bill and AB 59, AB 213, AB 290, AB 1303, and SB 314. It shall only become operative if (1) all six bills are enacted and become effective on or before January 1, 1998, (2) each bill amends Section 290 of the Penal Code, and (3) this bill is enacted after AB 59, AB 213, AB 290, AB 1303, and SB 314, in which case Section 290 of the Penal Code as amended by AB 290 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. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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

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## CHAPTER 821

An act to amend Section 1279.5 of the Code of Civil Procedure, and to amend Sections 243.4, 290, and 290.4 of the Penal Code, relating to sex offenders, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 8, 1997. Filed with Secretary of State October 9, 1997.]

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

SECTION 1. Section 1279.5 of the Code of Civil Procedure is amended to read:

1279.5. (a) Except as provided in subdivision (b), (c), (d), or (e), nothing in this title shall be construed to abrogate the common law right of any person to change his or her name.

(b) Notwithstanding any other law, no person imprisoned in the state prison and under the jurisdiction of the Director of Corrections shall be allowed to file an application for change of name pursuant to Section 1276, except as permitted at the discretion of the Director of Corrections.

(c) A court shall deny an application for a name change pursuant to Section 1276 made by a person who is under the jurisdiction of the Department of Corrections, unless that person's parole agent or probation officer grants prior written approval. Before granting that approval the parole agent or probation officer shall determine that the name change will not pose a security risk to the community.

(d) Notwithstanding any other law, a court shall deny an application for a name change pursuant to Section 1276 made by a person who is required to register as a sex offender under Section 290 of the Penal Code, unless the court determines that it is in the best interest of justice to grant the application and that doing so will not adversely affect the public safety. If an application for a name change is granted for an individual required to register as a sex offender, the individual shall, within five working days, notify 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 a University of California or California State University if he or she is domiciled upon the campus or in any of its facilities.

(e) For the purpose of this section, the court shall use the California Law Enforcement Telecommunications System (CLETS) and Criminal Justice Information System (CJIS) to determine whether or not an applicant for a name change is under the jurisdiction of the Department of Corrections or is required to register as a sex offender pursuant to Section 290 of the Penal Code. Each person applying for a name change shall declare under penalty of perjury that he or she is not under the jurisdiction of the Department of Corrections or is required to register as a sex offender pursuant to Section 290 of the Penal Code. If a court is not equipped with CLETS or CJIS, the clerk of the court shall contact an appropriate local law enforcement agency which shall determine whether or not the applicant is under the jurisdiction of the Department of Corrections or is required to register as a sex offender pursuant to Section 290 of the Penal Code.

SEC. 2. Section 243.4 of the Penal Code is amended to read:

243.4. (a) Any person who touches an intimate part of another person while that person is unlawfully restrained by the accused or an accomplice, and if the touching is against the will of the person touched and is for the purpose of sexual arousal, sexual gratification, or sexual abuse, is guilty of sexual battery. A violation of this

subdivision is punishable by imprisonment in a county jail for not more than one year, and by a fine not exceeding two thousand dollars ($2,000); or by imprisonment in the state prison for two, three, or four years, and by a fine not exceeding ten thousand dollars ($10,000).

(b) Any person who touches an intimate part of another person who is institutionalized for medical treatment and who is seriously disabled or medically incapacitated, if the touching is against the will of the person touched, and if the touching is for the purpose of sexual arousal, sexual gratification, or sexual abuse, is guilty of sexual battery. A violation of this subdivision is punishable by imprisonment in a county jail for not more than one year, and by a fine not exceeding two thousand dollars ($2,000); or by imprisonment in the state prison for two, three, or four years, and by a fine not exceeding ten thousand dollars ($10,000).

(c) Any person who, for the purpose of sexual arousal, sexual gratification, or sexual abuse, causes another, against that person's will while that person is unlawfully restrained either by the accused or an accomplice, or is institutionalized for medical treatment and is seriously disabled or medically incapacitated, to masturbate or touch an intimate part of either of those persons or a third person, is guilty of sexual battery. A violation of this subdivision is punishable by imprisonment in a county jail for not more than one year, and by a fine not exceeding two thousand dollars ($2,000); or by imprisonment in the state prison for two, three, or four years, and by a fine not exceeding ten thousand dollars ($10,000).

(d) (1) Any person who touches an intimate part of another person, if the touching is against the will of the person touched, and is for the specific purpose of sexual arousal, sexual gratification, or sexual abuse, is guilty of misdemeanor sexual battery, punishable by a fine not exceeding two thousand dollars ($2,000), or by imprisonment in a county jail not exceeding six months, or by both that fine and imprisonment. However, if the defendant was an employer and the victim was an employee of the defendant, the misdemeanor sexual battery shall be punishable by a fine not exceeding three thousand dollars ($3,000), by imprisonment in a county jail not exceeding six months, or by both that fine and imprisonment. Notwithstanding any other provision of law, any amount of a fine above two thousand dollars ($2,000) which is collected from a defendant for a violation of this subdivision shall be transmitted to the State Treasury and, upon appropriation by the Legislature, distributed to the Department of Fair Employment and Housing for the purpose of enforcement of the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2 of the Government Code), including, but not limited to, laws that proscribe sexual harassment in places of employment. However, in no event shall an amount over two thousand dollars ($2,000) be transmitted to the State Treasury until

all fines, including any restitution fines that may have been imposed upon the defendant, have been paid in full.

(2) As used in this subdivision, “touches” means physical contact with another person, whether accomplished directly, through the clothing of the person committing the offense, or through the clothing of the victim.

(e) As used in subdivisions (a), (b), and (c), “touches” means physical contact with the skin of another person whether accomplished directly or through the clothing of the person committing the offense.

(f) As used in this section, the following terms have the following meanings:

(1) “Intimate part” means the sexual organ, anus, groin, or buttocks of any person, and the breast of a female.

(2) “Sexual battery” does not include the crimes defined in Section 261 or 289.

(3) “Seriously disabled” means a person with severe physical or sensory disabilities.

(4) “Medically incapacitated” means a person who is incapacitated as a result of prescribed sedatives, anesthesia, or other medication.

(5) “Institutionalized” means a person who is located voluntarily or involuntarily in a hospital, medical treatment facility, nursing home, acute care facility, or mental hospital.

(6) “Minor” means a person under 18 years of age.

(g) This section shall not be construed to limit or prevent prosecution under any other law which also proscribes a course of conduct that also is proscribed by this section.

(h) In the case of a felony conviction for a violation of this section, the fact that the defendant was an employer and the victim was an employee of the defendant shall be a factor in aggravation in sentencing.

(i) A person who commits a violation of subdivision (a), (b), or (c) against a minor when the person has a prior felony conviction for a violation of this section shall be guilty of a felony, punishable by imprisonment in the state prison for two, three, or four years and a fine not exceeding ten thousand dollars ($10,000).

SEC. 3. 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 or city that has no police department, 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. No entity

shall require a person to pay a fee to register or update his or her registration pursuant to this section. Beginning on his or her first birthday following registration or change of address, 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 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 or any person who has been found guilty in the guilt phase of a trial for an offense for which registration is required by this section but who has been found not guilty by reason of insanity in the sanity phase of the trial.

(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 which, 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.

(F) (i) Notwithstanding any other subdivision, a person who was convicted before January 1, 1976, under subdivision (a) of Section

286, or Section 288a, shall not be required to register pursuant to this section for that conviction if the conviction was for conduct between consenting adults that was decriminalized by Chapter 71 of the Statutes of 1975 or Chapter 1139 of the Statutes of 1976. The Department of Justice shall remove that person from the Sex Offender Registry, and the person is discharged from his or her duty to register pursuant to the following procedure:

(I) The person submits to the Department of Justice official documentary evidence, including court records or police reports, which demonstrate that the person's conviction pursuant to either of those sections was for conduct between consenting adults that was decriminalized; or

(II) The person submits to the department a declaration stating that the person's conviction pursuant to either of those sections was for consensual conduct between adults that has been decriminalized. The declaration shall be confidential and not a public record, and shall include the person's name, address, telephone number, date of birth, and a summary of the circumstances leading to the conviction, including the date of the conviction and county of the occurrence.

(III) The department shall determine whether the person's conviction was for conduct between consensual adults that has been decriminalized. If the conviction was for consensual conduct between adults that has been decriminalized, and the person has no other offenses for which he or she is required to register pursuant to this section, the department shall, within 60 days of receipt of those documents, notify the person that he or she is relieved of the duty to register, and shall notify the local law enforcement agency with which the person is registered that he or she has been relieved of the duty to register. The local law enforcement agency shall remove the person's registration from its files within 30 days of receipt of notification. If the documentary or other evidence submitted is insufficient to establish the person's claim, the department shall, within 60 days of receipt of those documents, notify the person that his or her claim cannot be established, and that the person shall continue to register pursuant to this section. The department shall provide, upon the person's request, any information relied upon by the department in making its determination that the person shall continue to register pursuant to this section. Any person whose claim has been denied by the department pursuant to this clause may petition the court to appeal the department's denial of the person's claim.

(ii) On or before July 1, 1998, the department shall make a report to the Legislature concerning the status of persons who may come under the provisions of this subparagraph, including the number of persons who were convicted before January 1, 1976, under subdivision (a) of Section 286 or Section 288a and are required to register under this section, the average age of these persons, the number of these persons who have any subsequent convictions for a

registerable sex offense, and the number of these persons who have sought successfully or unsuccessfully to be relieved of their duty to register under this section.

(b) (1) 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.

(2) 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 probation department, and a probation officer 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 probation officer 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 probation officer 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) On or after January 1, 1998, upon incarceration, placement, or commitment, or prior to release on probation, any person who is required to register under this section shall preregister. The preregistering official shall be the admitting officer at the place of incarceration, placement, or commitment, or the probation officer if the person is to be released on probation. The preregistration shall consist of both of the following:

(A) A preregistration statement in writing, signed by the person, giving information that may be required by the Department of Justice.

(B) The fingerprints and photograph of the person.

(C) Any person who is preregistered pursuant to this subdivision is required to be preregistered only once.

(2) A person described in paragraph (2) of subdivision (a) shall register, or reregister if the person has previously registered, upon release from incarceration, placement, or commitment, pursuant to paragraph (1) of subdivision (a). 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, regularly driven by, or registered in the name of the person.

(3) Within three days thereafter, the preregistering official or 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) (1) If any person who is required to register pursuant to this section changes his or her residence address, the person shall inform, in writing within five working days, the law enforcement agency or agencies with which he or she last registered of the new address. The law enforcement agency or agencies shall, within three days after receipt of this information, forward a copy of the change of address information 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.

(2) If any person who is required to register pursuant to this section changes his or her name, the person shall inform, in person, the law enforcement agency or agencies with which he or she is currently registered within five working days. The law enforcement agency or agencies shall forward a copy of this information to the Department of Justice within three days of its receipt.

(g) (1) Any person who is required to register under this section based on a misdemeanor conviction who willfully violates any requirement of this section is guilty of a misdemeanor punishable by imprisonment in a county jail not exceeding one year.

(2) Any person who is required to register under this section based on a felony conviction who willfully violates any requirement of this section or who has a prior conviction for the offense of failing to register under this section and who subsequently and willfully violates any requirement of this section is guilty of a felony and shall be punished by imprisonment in the state prison for 16 months or two or three years.

If probation is granted or if the imposition or execution of sentence is suspended, it shall be a condition of the probation or suspension that the person serve at least 90 days in a county jail. The penalty described in this paragraph shall apply whether or not the person has been released on parole or has been discharged from parole.

(3) Any person determined to be a mentally disordered sex offender or who has been found guilty in the guilt phase of trial for an offense for which registration is required under this section, but who has been found not guilty by reason of insanity in the sanity phase of the trial, who willfully violates any requirement of this section is guilty of a misdemeanor and shall be punished by imprisonment in a county jail not exceeding one year. For any second or subsequent willful violation of any requirement of this section, the person is guilty of a felony and shall be punished by imprisonment in the state prison for 16 months, or two or three years.

(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.

(5) Any person who is required to register under this section who willfully violates any requirement of this section is guilty of a continuing offense.

(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*) 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 designated law enforcement entity 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 specified in paragraph (1) of subdivision (a) of Section 290.4 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, or Section 203, 206, 207, or 236, provided that the offense is a felony, subdivision (a) of Section 273a, Section 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, or 314, Section 459, provided the offense is of the first degree, Section 597 or 646.9, subdivision (d), (h), or (i) of Section 647, Section 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) "Designated law enforcement entity" 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 designated law enforcement entity 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 designated law enforcement entity 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 Section 290.4 shall maintain records of those persons requesting to

view the CD-ROM or other electronic media for a minimum of five years. Agencies disseminating information to the public pursuant to subdivision (n) shall maintain records of the means and dates of dissemination for a minimum of five years.

(p) Law enforcement agencies and employees of law enforcement agencies shall be immune from liability for good faith conduct under this section. For the purposes of this section, "law enforcement agency" means the Attorney General, any district attorney, and any state agency expressly authorized by statute to investigate or prosecute law violators.

(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 this section, 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 this section, regardless of when it was committed.

SEC. 3.5. Section 290 of the Penal Code is amended to read:

290. (a) (1) (A) Every person described in paragraph (2), for the rest of his or her life while residing in, or, if he or she has no residence, while located within California, shall be required to register with the chief of police of the city in which he or she is residing, or if he or she has no residence, is located, or the sheriff of the county if he or she is residing, or if he or she has no residence, is located, in an unincorporated area or city that has no police department, and, additionally, with the chief of police of a campus of the University of California, the California State University, or community college if he or she is residing, or if he or she has no residence, is located 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, if he or she has no residence, is located.

(B) If the person who is registering has no residence address, he or she shall update his or her registration no less than once every 90 days in addition to the requirement in subparagraph (A), on a form as may be required by the Department of Justice, with the entity or entities described in subparagraph (A) in whose jurisdiction he or she is located at the time he or she is updating the registration.

(C) Beginning on his or her first birthday following registration or change of address, the person shall be required to register annually, within five working days of his or her birthday, to update his or her

registration with the entities described in subparagraph (A), including, verifying his or her name and address, or temporary location, on a form as may be required by the Department of Justice.

(D) In addition, every person who is a sexually violent predator, as defined in Section 6600 of the Welfare and Institutions Code, shall, after his or her release from custody, verify his or her address every 90 days in a manner established by the Department of Justice.

(E) No entity shall require a person to pay a fee to register or update his or her registration pursuant to this section.

(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 Section 207 or 209 committed with intent to violate Section 261, 286, 288, 288a, or 289, 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, subdivision (b) of Section 266h, subdivision (b) of Section 266i, 266j, 267, 269, 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 (c) of Section 653f, subdivision 1 or 2 of Section 314, any offense involving lewd or 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 or any person who has been found guilty in the guilt phase of a trial for an offense for which registration is required by this section but who has been found not guilty by reason of insanity in the sanity phase of the trial.

(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.

(F) (i) Notwithstanding any other subdivision, a person who was convicted before January 1, 1976, under subdivision (a) of Section 286, or Section 288a, shall not be required to register pursuant to this section for that conviction if the conviction was for conduct between consenting adults that was decriminalized by Chapter 71 of the Statutes of 1975 or Chapter 1139 of the Statutes of 1976. The Department of Justice shall remove that person from the Sex Offender Registry, and the person is discharged from his or her duty to register pursuant to the following procedure:

(I) The person submits to the Department of Justice official documentary evidence, including court records or police reports, which demonstrate that the person's conviction pursuant to either of those sections was for conduct between consenting adults that was decriminalized; or

(II) The person submits to the department a declaration stating that the person's conviction pursuant to either of those sections was for consensual conduct between adults that has been decriminalized. The declaration shall be confidential and not a public record, and shall include the person's name, address, telephone number, date of birth, and a summary of the circumstances leading to the conviction, including the date of the conviction and county of the occurrence.

(III) The department shall determine whether the person's conviction was for conduct between consensual adults that has been decriminalized. If the conviction was for consensual conduct between adults that has been decriminalized, and the person has no other offenses for which he or she is required to register pursuant to this section, the department shall, within 60 days of receipt of those documents, notify the person that he or she is relieved of the duty to register, and shall notify the local law enforcement agency with which the person is registered that he or she has been relieved of the duty to register. The local law enforcement agency shall remove the person's registration from its files within 30 days of receipt of notification. If the documentary or other evidence submitted is insufficient to establish the person's claim, the department shall, within 60 days of receipt of those documents, notify the person that his or her claim cannot be established, and that the person shall continue to register pursuant to this section. The department shall provide, upon the person's request, any information relied upon by the department in making its determination that the person shall continue to register pursuant to this section. Any person whose claim has been denied by the department pursuant to this clause may

petition the court to appeal the department's denial of the person's claim.

(ii) On or before July 1, 1998, the department shall make a report to the Legislature concerning the status of persons who may come under the provisions of this subparagraph, including the number of persons who were convicted before January 1, 1976, under subdivision (a) of Section 286 or Section 288a and are required to register under this section, the average age of these persons, the number of these persons who have any subsequent convictions for a registerable sex offense, and the number of these persons who have sought successfully or unsuccessfully to be relieved of their duty to register under this section.

(b) (1) Any person who 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.

(2) 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 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 probation department, and a probation officer 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 probation officer 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 probation officer 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 juvenile 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 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 paragraph (3), shall be subject to registration under the procedures of this section.

(3) Any person described in this subdivision who committed an offense in violation of any of the following provisions shall be required to register pursuant to this section:

(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 paragraph (1), (2), (3), (4), or (6) of subdivision (a) of Section 261, Section 264.1, 266c, or 267, paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of, Section 286, Section 288 or 288.5, paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of, Section 288a, subdivision (a) of Section 289, or Section 647.6.

(C) A violation of Section 207 or 209 committed with the intent to violate Section 261, 286, 288, 288a, or 289.

(4) Prior to discharge or parole from the Department of the Youth Authority, any person who is subject to registration under this subdivision 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.

(5) 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) On or after January 1, 1998, upon incarceration, placement, or commitment, or prior to release on probation, any person who is required to register under this section shall preregister. The preregistering official shall be the admitting officer at the place of incarceration, placement, or commitment, or the probation officer if the person is to be released on probation. The preregistration shall consist of both of the following:

(A) A preregistration statement in writing, signed by the person, giving information that may be required by the Department of Justice.

(B) The fingerprints and photograph of the person.

(C) Any person who is preregistered pursuant to this subdivision is required to be preregistered only once.

(2) A person described in paragraph (2) of subdivision (a) shall register, or reregister if the person has previously registered, upon release from incarceration, placement, or commitment, pursuant to paragraph (1) of subdivision (a). 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, regularly driven by, or registered in the name of the person.

(D) Notice to the person that, in addition to the requirements of paragraph (4), he or she may have a duty to register in any other state where he or she may relocate.

(3) Within three days thereafter, the preregistering official or 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) (1) If any person who is required to register pursuant to this section changes his or her residence address, the person shall inform, in writing within five working days, the law enforcement agency or agencies with which he or she last registered of the new address. The law enforcement agency or agencies shall, within three days after receipt of this information, forward a copy of the change of address information 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.

(2) If any person who is required to register pursuant to this section changes his or her name, the person shall inform, in person,

the law enforcement agency or agencies with which he or she is currently registered within five working days. The law enforcement agency or agencies shall forward a copy of this information to the Department of Justice within three days of its receipt.

(g) (1) Any person who is required to register under this section based on a misdemeanor conviction who willfully violates any requirement of this section is guilty of a misdemeanor punishable by imprisonment in a county jail not exceeding one year.

(2) Except as provided in paragraph (5), any person who is required to register under this section based on a felony conviction who willfully violates any requirement of this section or who has a prior conviction for the offense of failing to register under this section and who subsequently and willfully violates any requirement of this section is guilty of a felony and shall be punished by imprisonment in the state prison for 16 months, or two or three years.

If probation is granted or if the imposition or execution of sentence is suspended, it shall be a condition of the probation or suspension that the person serve at least 90 days in a county jail. The penalty described in this paragraph shall apply whether or not the person has been released on parole or has been discharged from parole.

(3) Any person determined to be a mentally disordered sex offender or who has been found guilty in the guilt phase of trial for an offense for which registration is required under this section, but who has been found not guilty by reason of insanity in the sanity phase of the trial, who willfully violates any requirement of this section is guilty of a misdemeanor and shall be punished by imprisonment in a county jail not exceeding one year. For any second or subsequent willful violation of any requirement of this section, the person is guilty of a felony and shall be punished by imprisonment in the state prison for 16 months, or two or three years.

(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.

(5) Any person who, as a sexually violent predator, as defined in Section 6600 of the Welfare and Institutions Code, fails to verify his or her registration every 90 days as required pursuant to subparagraph (D) of paragraph (1) of subdivision (a), shall be punished by imprisonment in the state prison, or in a county jail not exceeding one year.

(6) In addition to any other penalty imposed under this subdivision, any person who is required pursuant to subparagraph

(B) of paragraph (1) of subdivision (a) to update his or her registration every 90 days and willfully fails to update his or her registration is guilty of a misdemeanor and shall be punished by imprisonment in a county jail not exceeding six months. Any subsequent violation of this requirement that persons described in subdivision (B) of paragraph (1) of subdivision (a) shall update their registration every 90 days is also a misdemeanor and shall be punished by imprisonment in a county jail not exceeding six months.

(7) Any person who is required to register under this section who willfully violates any requirement of this section is guilty of a continuing offense.

(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, 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.

(2) Every person who, as a sexually violent predator, as defined in Section 6600 of the Welfare and Institutions Code, is required to

verify his or her registration every 90 days, shall be notified wherever he or she next registers of his or her increased registration obligations. This notice shall be provided in writing by the registering agency or agencies. Failure to receive this notice shall be a defense against the penalties prescribed by paragraph (5) of subdivision (g).

(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 designated law enforcement entity 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 specified in paragraph (1) of subdivision (a) of Section 290.4 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.

(v) Has been adjudicated a sexually violent predator pursuant to Article 4 (commencing with Section 6600) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code.

(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, or Section 203, 206, 207, or 236,

provided that the offense is a felony, subdivision (a) of Section 273a, Section 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, or 314, Section 459, provided the offense is of the first degree, Section 597 or 646.9, subdivision (d), (h), or (i) of Section 647, Section 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) "Designated law enforcement entity" 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 campus of the University of California or California State University, 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 designated law enforcement entity 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 designated law enforcement entity 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 offender's 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 Section 290.4 shall maintain records of those persons requesting to view the CD-ROM or other electronic media for a minimum of five years. Agencies disseminating information to the public pursuant to subdivision (n) shall maintain records of the means and dates of dissemination for a minimum of five years.

(p) Law enforcement agencies and employees of law enforcement agencies shall be immune from liability for good faith conduct under this section. For the purposes of this section, "law enforcement agency" means the Attorney General, any district attorney, and any state agency expressly authorized by statute to investigate or prosecute law violators.

(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 this section, 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 this section, regardless of when it was committed.

SEC. 4. 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 266j; Section 267; paragraph (1) of subdivision (b) of Section 286, provided that the offense is a felony; paragraph (2) of subdivision (b), subdivision (c), (d), (f), (g), (i), (j), or (k) of Section 286; Section 288; paragraph (1) of subdivision (b) of Section 288a, provided that the offense is a felony; 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), (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 or any offense which, if committed or attempted in this state, would have been punishable as one or more of the offenses described in this section. This requirement shall not be applied to a person whose duty to register has been terminated pursuant to paragraph (6) 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, and 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 and 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, municipal police departments of cities 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 departments of cities 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, 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 the purpose of the release of information is to allow members of the public to protect themselves and their children from sex offenders, and 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 designated 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" telephone 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" telephone 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" telephone 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" telephone 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 or Section 290, or any other statute expressly authorizing it.

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 a county jail not to exceed six months or by a fine not exceeding one thousand dollars ($1,000), or by both. This subdivision shall 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, court case, or as otherwise authorized by subdivision (n) of Section 290. This subdivision shall not prohibit copying information by handwriting.

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 information, for purposes relating to any of the following, and that is 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" telephone 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 shall be 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) Any law enforcement agency and employees of law enforcement agencies shall be immune from liability for good faith conduct under this section. For the purposes of this section, "law enforcement agency" means the Attorney General, any district attorney, and any state agency expressly authorized by statute to investigate or prosecute law violators.

(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 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.

(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. 4.1. 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

Section 207 or 209 committed with the intent to violate Section 261, 286, 288, 288a, or 289; 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 266j; Section 267; paragraph (1) of subdivision (b) of Section 286, provided that the offense is a felony; paragraph (2) of subdivision (b), subdivision (c), (d), (f), (g), (i), (j), or (k) of Section 286; Section 288; paragraph (1) of subdivision (b) of Section 288a, provided that the offense is a felony; 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), (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 or any offense which, if committed or attempted in this state, would have been punishable as one or more of the offenses described in this section. This requirement shall not be applied to a person whose duty to register has been terminated pursuant to paragraph (6) 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, and 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 and 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, municipal police departments of cities 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 departments of cities 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, 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 the purpose of the release of information is to allow members of the public to protect themselves and their children from sex offenders, and 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 designated 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" telephone 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" telephone 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" telephone 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" telephone 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 or Section 290, or any other statute expressly authorizing it.

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 a county jail not to exceed six months or by a fine not exceeding one thousand dollars ($1,000), or by both. This subdivision shall 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, court case, or as otherwise authorized by subdivision (n) of Section 290. This subdivision shall not prohibit copying information by handwriting.

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 information, for purposes relating to any of the following, and that is 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" telephone 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 shall be 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) Any law enforcement agency and employees of law enforcement agencies shall be immune from liability for good faith

conduct under this section. For the purposes of this section, “law enforcement agency” means the Attorney General, any district attorney, and any state agency expressly authorized by statute to investigate or prosecute law violators.

(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 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.

(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. 4.2. 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 266j; Section 267; paragraph (1) of subdivision (b) of Section 286, provided that the offense is a felony; paragraph (2) of subdivision (b), subdivision (c), (d), (f), (g), (i), (j), or (k) of Section 286; Section 288; paragraph (1) of subdivision (b) of Section 288a, provided that the offense is a felony; 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 or any offense which, if committed or attempted in this state, would have been punishable as one or more of the offenses described in this section. This requirement shall not be applied to a person whose duty to register has been terminated pursuant to paragraph (6) 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, and 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 and 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, municipal police departments of cities 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 departments of cities 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, 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 the purpose of the release of information is to allow members of the public to protect themselves and their children from sex offenders, and 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 designated 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" telephone 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” telephone 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” telephone 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” telephone 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 or Section 290, or any other statute expressly authorizing it.

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 a county jail not to exceed six months or by a fine not exceeding one thousand dollars

($1,000), or by both. This subdivision shall 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, court case, or as otherwise authorized by subdivision (n) of Section 290. This subdivision shall not prohibit copying information by handwriting.

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 information, for purposes relating to any of the following, and that is 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" telephone 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 shall be 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) Any law enforcement agency and employees of law enforcement agencies shall be immune from liability for good faith conduct under this section. For the purposes of this section, "law enforcement agency" means the Attorney General, any district attorney, and any state agency expressly authorized by statute to investigate or prosecute law violators.

(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 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.

(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. 4.3. 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 266j; Section 267; paragraph (1) of subdivision (b) of Section 286, provided that the offense is a felony; paragraph (2) of subdivision (b), subdivision (c), (d), (f), (g), (i), (j), or (k) of Section 286; Section 288; paragraph (1) of subdivision (b) of Section 288a, provided that the offense is a felony; 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), (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 or any offense which, if committed or attempted in this state, would have been punishable as one or more of the offenses described in this section. This requirement shall not be applied to a person whose duty to register has been terminated pursuant to paragraph (6) 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, and 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 and 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, municipal police departments of cities 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 departments of cities 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, 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 the purpose of the release of information is to allow members of the public to protect themselves and their children from sex offenders, and 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 designated 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" telephone 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" telephone 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" telephone 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" telephone 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 or Section 290, or any other statute expressly authorizing it.

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 a county jail not to exceed six months or by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine. This subdivision shall 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, court case, or as otherwise authorized by subdivision (n) of Section 290. This subdivision shall not prohibit copying information by handwriting.

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 by both that imprisonment and fine.

(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 information, for purposes relating to any of the following, and that is 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" telephone 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 shall be 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) Any law enforcement agency and employees of law enforcement agencies shall be immune from liability for good faith conduct under this section. For the purposes of this section, "law enforcement agency" means the Attorney General, any district attorney, and any state agency expressly authorized by statute to investigate or prosecute law violators.

(j) 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.

(k) 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.

(*l*) No later than December 31, 1998, the Department of Justice shall prepare an informational pamphlet that shall be mailed to any member of the public who makes an inquiry using the "900" telephone number required by this section and who provides an address. The pamphlet shall provide basic information concerning appropriate steps parents, guardians, and other responsible adults can take to ensure a child is safe from a suspected child molester, including, but not limited to, how to identify suspicious activity by an adult, common facts and myths about child molesters, and how to obtain additional help and information. A notice to callers to the "900" telephone number that they will receive the pamphlet, if an address is provided, shall be included in the preamble required by this section.

(m) This section shall remain operative only until January 1, 2001, and as of that date is repealed unless a later enacted statute, which becomes effective on or before that date, deletes or extends that date.

SEC. 4.4. 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 Section 207 or 209 committed with the intent to violate Section 261, 286, 288, 288a, or 289; 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 266j; Section 267; paragraph (1) of subdivision (b) of Section 286, provided that the offense is a felony; paragraph (2) of subdivision (b), subdivision (c), (d), (f), (g), (i), (j), or (k) of Section 286; Section 288; paragraph (1) of subdivision (b) of Section 288a, provided that the offense is a felony; 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 or any offense which, if committed or attempted in this state, would have been punishable as one or more of the offenses described in this section. This requirement shall not be applied to a person whose duty to register has been terminated pursuant to paragraph (5) 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, and 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 and 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, municipal police departments of cities 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 departments of cities 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, 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 the purpose of the release of information is to allow members of the public to protect themselves and their children from sex offenders, and 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 designated 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" telephone 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" telephone 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" telephone 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" telephone 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 or Section 290, or any other statute expressly authorizing it.

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 a county jail not to exceed six months or by a fine not exceeding one thousand dollars ($1,000), or by both. This subdivision shall 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, court case, or as otherwise authorized by subdivision (n) of Section 290. This subdivision shall not prohibit copying information by handwriting.

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 information, for purposes relating to any of the following, and that is 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" telephone 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 shall be 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) Any law enforcement agency and employees of law enforcement agencies shall be immune from liability for good faith conduct under this section. For the purposes of this section, "law enforcement agency" means the Attorney General, any district attorney, and any state agency expressly authorized by statute to investigate or prosecute law violators.

(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 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.

(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. 4.5. 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 Section 207 or 209 committed with the intent to violate Section 261, 286, 288, 288a, or 289; 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 266j; Section 267; paragraph (1) of subdivision (b) of Section 286, provided that the offense is a felony; paragraph (2) of subdivision (b), subdivision (c), (d), (f), (g), (i), (j), or (k) of Section 286; Section 288; paragraph (1) of subdivision (b) of Section 288a, provided that the offense is a felony; 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), (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 or any offense which, if committed or attempted in this state, would have been punishable as one or more of the offenses described in this section. This requirement shall not be applied to a person whose duty to register has been terminated pursuant to paragraph (6) 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, and 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 and 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, municipal police departments of cities 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 departments of cities 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, 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 the purpose of the release of information is to allow members of the public to protect themselves and their children from sex offenders, and 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 designated 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" telephone 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" telephone 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" telephone 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" telephone 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 or Section 290, or any other statute expressly authorizing it.

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 a county jail not to exceed six months or by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine. This subdivision shall 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, court case, or as otherwise authorized by subdivision (n) of Section 290. This subdivision shall not prohibit copying information by handwriting.

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 by both that imprisonment and fine.

(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 information, for purposes relating to any of the following, and that is 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" telephone 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 shall be 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) Any law enforcement agency and employees of law enforcement agencies shall be immune from liability for good faith conduct under this section. For the purposes of this section, "law enforcement agency" means the Attorney General, any district attorney, and any state agency expressly authorized by statute to investigate or prosecute law violators.

(j) 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.

(k) 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.

(*l*) No later than December 31, 1998, the Department of Justice shall prepare an informational pamphlet that shall be mailed to any member of the public who makes an inquiry using the "900" telephone number required by this section and who provides an address. The pamphlet shall provide basic information concerning appropriate steps parents, guardians, and other responsible adults can take to ensure a child is safe from a suspected child molester, including, but not limited to, how to identify suspicious activity by an adult, common facts and myths about child molesters, and how to obtain additional help and information. A notice to callers to the "900" telephone number that they will receive the pamphlet, if an address is provided, shall be included in the preamble required by this section.

(m) This section shall remain operative only until January 1, 2001, and as of that date is repealed unless a later enacted statute, which becomes effective on or before that date, deletes or extends that date.

SEC. 4.6. 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 266j; Section 267; paragraph (1) of subdivision (b) of Section 286, provided that the offense is a felony; paragraph (2) of subdivision (b), subdivision (c), (d), (f), (g), (i), (j), or (k) of Section 286; Section 288; paragraph (1) of subdivision (b) of Section 288a, provided that the offense is a felony; 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 or any offense which, if committed or attempted in this state, would have been punishable as one or more of the offenses described in this section. This requirement shall not be applied to a person whose duty to register has been terminated pursuant to paragraph (6) 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, and 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 and 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, municipal police departments of cities 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 departments of cities 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, 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 the purpose of the release of information is to allow members of the public to protect themselves and their children from sex offenders, and 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 designated 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" telephone 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" telephone 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" telephone 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" telephone 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 or Section 290, or any other statute expressly authorizing it.

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 a county jail not to exceed six months or by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine. This subdivision shall 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, court case, or as otherwise authorized by subdivision (n) of Section 290. This subdivision shall not prohibit copying information by handwriting.

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 by both that imprisonment and fine.

(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 information, for purposes relating to any

of the following, and that is 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" telephone 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 shall be 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) Any law enforcement agency and employees of law enforcement agencies shall be immune from liability for good faith conduct under this section. For the purposes of this section, "law enforcement agency" means the Attorney General, any district attorney, and any state agency expressly authorized by statute to investigate or prosecute law violators.

(j) 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.

(k) 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.

(*l*) No later than December 31, 1998, the Department of Justice shall prepare an informational pamphlet that shall be mailed to any member of the public who makes an inquiry using the "900" telephone number required by this section and who provides an address. The pamphlet shall provide basic information concerning appropriate steps parents, guardians, and other responsible adults can take to ensure a child is safe from a suspected child molester, including, but not limited to, how to identify suspicious activity by an adult, common facts and myths about child molesters, and how to obtain additional help and information. A notice to callers to the "900" telephone number that they will receive the pamphlet, if an address is provided, shall be included in the preamble required by this section.

(m) This section shall remain operative only until January 1, 2001, and as of that date is repealed unless a later enacted statute, which becomes effective on or before that date, deletes or extends that date.

SEC. 4.7. 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 Section 207 or 209 committed with the intent to violate Section 261, 286, 288, 288a, or 289; 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 266j; Section 267; paragraph (1) of subdivision (b) of Section 286, provided that the offense is a felony; paragraph (2) of subdivision (b), subdivision (c), (d), (f), (g), (i), (j), or (k) of Section 286; Section 288; paragraph (1) of subdivision (b) of Section 288a, provided that the offense is a felony; 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 or any offense which, if committed or attempted in this state, would have been punishable as one or more of the offenses described in this section. This requirement shall not be applied to a person whose duty to register has been terminated pursuant to paragraph (5) 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, and 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 and 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, municipal police departments of cities 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 departments of cities 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, 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 the purpose of the release of information is to allow members of the public to protect themselves and their children from sex offenders, and 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 designated 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" telephone 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" telephone 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" telephone 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" telephone 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 or Section 290, or any other statute expressly authorizing it.

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 a county jail not to exceed six months or by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine. This subdivision shall 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, court case, or as otherwise authorized by subdivision (n) of Section 290. This subdivision shall not prohibit copying information by handwriting.

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 by both that imprisonment and fine.

(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 information, for purposes relating to any

of the following, and that is 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" telephone 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 shall be 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) Any law enforcement agency and employees of law enforcement agencies shall be immune from liability for good faith conduct under this section. For the purposes of this section, "law enforcement agency" means the Attorney General, any district attorney, and any state agency expressly authorized by statute to investigate or prosecute law violators.

(j) 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.

(k) 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.

(*l*) No later than December 31, 1998, the Department of Justice shall prepare an informational pamphlet that shall be mailed to any member of the public who makes an inquiry using the "900" telephone number required by this section and who provides an address. The pamphlet shall provide basic information concerning appropriate steps parents, guardians, and other responsible adults can take to ensure a child is safe from a suspected child molester, including, but not limited to, how to identify suspicious activity by an adult, common facts and myths about child molesters, and how to obtain additional help and information. A notice to callers to the "900" telephone number that they will receive the pamphlet, if an address is provided, shall be included in the preamble required by this section.

(m) This section shall remain operative only until January 1, 2001, and as of that date is repealed unless a later enacted statute, which becomes effective on or before that date, deletes or extends that date.

SEC. 5. Section 3.5 of this bill incorporates amendments to Section 290 of the Penal Code proposed by this bill and AB 59, AB 213, AB 1303, SB 314, and SB 882. It shall only become operative if (1) all six bills are enacted and become effective on or before January 1, 1998, but this bill becomes operative first, (2) each bill amends Section 290 of the Penal Code, and (3) this bill is enacted after AB 59, AB 213, AB 1303, SB 314, and SB 882, in which case Section 290 of the Penal Code as amended by Section 3 of this bill shall remain operative only until January 1, 1998, at which time Section 3.5 of this bill shall become operative.

SEC. 6. (a) Section 4.1 of this bill incorporates amendments to Section 290.4 of the Penal Code proposed by both this bill and AB 59. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1998, but this bill becomes operative first, (2) each bill amends Section 290.4 of the Penal Code, (3) SB 314 and SB 1078 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after AB 59, in which case Section 290.4 of the Penal Code as amended by Section 4 of this bill shall remain operative only until the operative date of AB 59, at which time Section 4.1 shall become operative and Sections 4.2, 4.3, 4.4, 4.5, 4.6, and 4.7 of this bill shall not become operative.

(b) Section 4.2 of this bill incorporates amendments to Section 290.4 of the Penal Code proposed by both this bill and SB 314. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1998, but this bill becomes operative first, (2) each bill amends Section 290.4 of the Penal Code, (3) AB 59 and SB 1078 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after SB 314, in which case Section 290.4 of the Penal Code as amended by Section 4 of this bill shall remain operative only until the operative date of SB 314, at which time Section 4.2 shall become operative and Sections 4.1, 4.3, 4.4, 4.5, 4.6, and 4.7 of this bill shall not become operative.

(c) Section 4.3 of this bill incorporates amendments to Section 290.4 of the Penal Code proposed by both this bill and SB 1078. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1998, but this bill becomes operative first, (2) each bill amends Section 290.4 of the Penal Code, (3) AB 59 and SB 314 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after SB 1078, in which case Section 290.4 of the Penal Code as amended by Section 4 of this bill shall remain operative only until the operative date of SB 1078, at which time Section 4.3 shall become operative and Sections 4.1, 4.2, 4.4, 4.5, 4.6, and 4.7 of this bill shall not become operative.

(d) Section 4.4 of this bill incorporates amendments to Section 290.4 of the Penal Code proposed by this bill, AB 59, and SB 314. It

shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 1998, but this bill becomes operative first, (2) each bill amends Section 290.4 of the Penal Code, (3) SB 1078 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 59 and SB 314, in which case Section 290.4 of the Penal Code as amended by Section 4 of this bill shall remain operative only until January 1, 1998, at which time Section 4.4 shall become operative and Sections 4.1, 4.2, 4.3, 4.5, 4.6, and 4.7 of this bill shall not become operative.

(e) Section 4.5 of this bill incorporates amendments to Section 290.4 of the Penal Code proposed by this bill, AB 59, and SB 1078. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 1998, but this bill becomes operative first, (2) each bill amends Section 290.4 of the Penal Code, (3) SB 314 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 59 and SB 1078, in which case Section 290.4 of the Penal Code as amended by Section 4 of this bill shall remain operative only until January 1, 1998, at which time Section 4.5 shall become operative and Sections 4.1, 4.2, 4.3, 4.4, 4.6, and 4.7 of this bill shall not become operative.

(f) Section 4.6 of this bill incorporates amendments to Section 290.4 of the Penal Code proposed by this bill, SB 314, and SB 1078. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 1998, but this bill becomes operative first, (2) each bill amends Section 290.4 of the Penal Code, (3) AB 59 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after SB 314 and SB 1078, in which case Section 290.4 of the Penal Code as amended by Section 4 of this bill shall remain operative only until January 1, 1998, at which time Section 4.6 shall become operative and Sections 4.1, 4.2, 4.3, 4.4, 4.5, and 4.7 of this bill shall not become operative.

(g) Section 4.7 of this bill incorporates amendments to Section 290.4 of the Penal Code proposed by this bill, AB 59, SB 314, and SB 1078. It shall only become operative if (1) all four bills are enacted and become effective on or before January 1, 1998, but this bill becomes operative first, (2) each bill amends Section 290.4 of the Penal Code, and (3) this bill is enacted after AB 59, SB 314, and SB 1078, in which case Section 290.4 of the Penal Code as amended by Section 4 of this bill shall remain operative only until January 1, 1998, at which time Section 4.7 shall become operative and Sections 4.1, 4.2, 4.3, 4.4, 4.5, and 4.6 of this bill shall not become operative.

SEC. 7. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs 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. 8. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide immediate relief to individuals who were convicted of crimes that have been decriminalized, it is necessary that this act take effect immediately.

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## CHAPTER 822

An act to amend Section 290.4 of the Penal Code, relating to sex offenses.

[Approved by Governor October 8, 1997. Filed with
Secretary of State October 9, 1997.]

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

SECTION 1. 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), (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, and 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 and 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, municipal police departments of cities 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 departments of cities 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 the purpose of the release of information is to allow members of the public to protect themselves and their children from sex offenders, and 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" telephone 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" telephone 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" telephone 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 or Section 290, or any other statute expressly authorizing it.

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 a county jail not to exceed six months, or by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine. This subdivision shall 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, 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 by both that imprisonment and fine.

(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 shall be 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) Law enforcement agencies, employees of law enforcement agencies, and state officials shall be immune from liability for good faith conduct under this section.

(j) 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.

(k) 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.

(*l*) No later than December 31, 1998, the Department of Justice shall prepare an informational pamphlet that shall be mailed to any

member of the public who makes an inquiry using the "900" telephone number required by this section and who provides an address. The pamphlet shall provide basic information concerning appropriate steps parents, guardians, and other responsible adults can take to ensure a child is safe from a suspected child molester, including, but not limited to, how to identify suspicious activity by an adult, common facts and myths about child molesters, and how to obtain additional help and information. A notice to callers to the "900" telephone number that they will receive the pamphlet, if an address is provided, shall be included in the preamble required by this section.

(m) This section shall remain operative only until January 1, 2001, and as of that date is repealed unless a later enacted statute, which becomes effective on or before that date, deletes or extends that date.

SEC. 1.1. 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 Section 207 or 209 committed with the intent to violate Section 261, 286, 288, 288a, or 289; 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), (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, and 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 and 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, municipal police departments of cities 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 departments of cities 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 the purpose of the release of information is to allow members of the public to protect themselves and their children from sex offenders, and 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" telephone 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" telephone 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" telephone 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 or Section 290, or any other statute expressly authorizing it.

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 a county jail not to exceed six months, or by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine. This subdivision shall 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, 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 by both that imprisonment and fine.

(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" telephone 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 shall be 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) Law enforcement agencies, employees of law enforcement agencies, and state officials shall be immune from liability for good faith conduct under this section.

(j) 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.

(k) 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.

(*l*) No later than December 31, 1998, the Department of Justice shall prepare an informational pamphlet that shall be mailed to any member of the public who makes an inquiry using the "900" telephone number required by this section and who provides an address. The pamphlet shall provide basic information concerning appropriate steps parents, guardians, and other responsible adults can take to ensure a child is safe from a suspected child molester, including, but not limited to, how to identify suspicious activity by an adult, common facts and myths about child molesters, and how to obtain additional help and information. A notice to callers to the "900" telephone number that they will receive the pamphlet, if an

address is provided, shall be included in the preamble required by this section.

(m) This section shall remain operative only until January 1, 2001, and as of that date is repealed unless a later enacted statute, which becomes effective on or before that date, deletes or extends that date.

SEC. 1.2. 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 266j; Section 267; paragraph (1) of subdivision (b) of Section 286, provided that the offense is a felony; paragraph (2) of subdivision (b), subdivision (c), (d), (f), (g), (i), (j), or (k) of Section 286; Section 288; paragraph (1) of subdivision (b) of Section 288a, provided that the offense is a felony; 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), (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 or any offense which, if committed or attempted in this state, would have been punishable as one or more of the offenses described in this section. This requirement shall not be applied to a person whose duty to register has been terminated pursuant to paragraph (6) 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, and 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 and 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, municipal police departments of cities 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 departments of cities 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, 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 the purpose of the release of information is to allow members of the public to protect themselves and their children from sex offenders, and 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 designated 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" telephone 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" telephone 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" telephone 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" telephone 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 or Section 290, or any other statute expressly authorizing it.

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 a county jail not to exceed six months or by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine. This subdivision shall 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, court case, or as otherwise authorized by subdivision (n) of Section 290. This subdivision shall not prohibit copying information by handwriting.

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 by both that imprisonment and fine.

(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 information, for purposes relating to any

of the following, and that is 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" telephone 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 shall be 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) Any law enforcement agency and employees of law enforcement agencies shall be immune from liability for good faith conduct under this section. For the purposes of this section, "law enforcement agency" means the Attorney General, any district attorney, and any state agency expressly authorized by statute to investigate or prosecute law violators.

(j) 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.

(k) 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.

(*l*) No later than December 31, 1998, the Department of Justice shall prepare an informational pamphlet that shall be mailed to any member of the public who makes an inquiry using the "900" telephone number required by this section and who provides an address. The pamphlet shall provide basic information concerning appropriate steps parents, guardians, and other responsible adults can take to ensure a child is safe from a suspected child molester, including, but not limited to, how to identify suspicious activity by an adult, common facts and myths about child molesters, and how to obtain additional help and information. A notice to callers to the "900" telephone number that they will receive the pamphlet, if an address is provided, shall be included in the preamble required by this section.

(m) This section shall remain operative only until January 1, 2001, and as of that date is repealed unless a later enacted statute, which becomes effective on or before that date, deletes or extends that date.

SEC. 1.3. 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 paragraph (5) 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, and 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 and 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, municipal police departments of cities 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 departments of cities 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 the purpose of the release of information is to allow members of the public to protect themselves and their children from sex offenders, and 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" telephone 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" telephone 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" telephone 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" telephone 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 or Section 290, or any other statute expressly authorizing it.

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 a county jail not to exceed six months, or by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine. This subdivision shall 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, 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 by both that imprisonment and fine.

(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" telephone 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 shall be 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) Law enforcement agencies, employees of law enforcement agencies, and state officials shall be immune from liability for good faith conduct under this section.

(j) 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.

(k) 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.

(*l*) No later than December 31, 1998, the Department of Justice shall prepare an informational pamphlet that shall be mailed to any member of the public who makes an inquiry using the "900" telephone number required by this section and who provides an address. The pamphlet shall provide basic information concerning appropriate steps parents, guardians, and other responsible adults can take to ensure a child is safe from a suspected child molester, including, but not limited to, how to identify suspicious activity by an adult, common facts and myths about child molesters, and how to obtain additional help and information. A notice to callers to the "900" telephone number that they will receive the pamphlet, if an address is provided, shall be included in the preamble required by this section.

(m) This section shall remain operative only until January 1, 2001, and as of that date is repealed unless a later enacted statute, which becomes effective on or before that date, deletes or extends that date.

SEC. 1.4. 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 Section 207 or 209 committed with the intent to violate Section 261, 286, 288, 288a, or 289; 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 266j; Section 267; paragraph (1) of subdivision (b) of Section 286, provided that the offense is a felony; paragraph (2) of subdivision (b), subdivision (c), (d), (f), (g), (i), (j), or (k) of Section 286; Section 288; paragraph (1) of subdivision (b) of Section 288a, provided that the offense is a felony; 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), (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 or any offense which, if committed or attempted in this state, would have been punishable as one or more of the offenses described in this section. This requirement shall not be applied to a person whose duty to register has been terminated pursuant to paragraph (6) 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, and 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 and 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, municipal police departments of cities 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 departments of cities 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, 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 the purpose of the release of information is to allow members of the public to protect themselves and their children from sex offenders, and 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 designated 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" telephone 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" telephone 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" telephone 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" telephone 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 or Section 290, or any other statute expressly authorizing it.

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 a county jail not to exceed six months or by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine. This subdivision shall 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, court case, or as otherwise authorized by subdivision (n) of Section 290. This subdivision shall not prohibit copying information by handwriting.

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 by both that imprisonment and fine.

(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 information, for purposes relating to any of the following, and that is 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" telephone 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 shall be 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) Any law enforcement agency and employees of law enforcement agencies shall be immune from liability for good faith conduct under this section. For the purposes of this section, "law enforcement agency" means the Attorney General, any district

attorney, and any state agency expressly authorized by statute to investigate or prosecute law violators.

(j) 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.

(k) 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.

(*l*) No later than December 31, 1998, the Department of Justice shall prepare an informational pamphlet that shall be mailed to any member of the public who makes an inquiry using the "900" telephone number required by this section and who provides an address. The pamphlet shall provide basic information concerning appropriate steps parents, guardians, and other responsible adults can take to ensure a child is safe from a suspected child molester, including, but not limited to, how to identify suspicious activity by an adult, common facts and myths about child molesters, and how to obtain additional help and information. A notice to callers to the "900" telephone number that they will receive the pamphlet, if an address is provided, shall be included in the preamble required by this section.

(m) This section shall remain operative only until January 1, 2001, and as of that date is repealed unless a later enacted statute, which becomes effective on or before that date, deletes or extends that date.

SEC. 1.5. 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 Section 207 or 209 committed with the intent to violate Section 261, 286, 288, 288a, or 289; 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 paragraph (5) 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, and 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 and 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, municipal police departments of cities 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 departments of cities 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 the purpose of the release of information is to allow members of the public to protect themselves and their children from sex offenders, and 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" telephone 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" telephone 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" telephone 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" telephone 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 or Section 290, or any other statute expressly authorizing it.

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 a county jail not to exceed six months, or by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine. This subdivision shall 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, 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 by both that imprisonment and fine.

(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" telephone 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 shall be 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) Law enforcement agencies, employees of law enforcement agencies, and state officials shall be immune from liability for good faith conduct under this section.

(j) 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.

(k) 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.

(*l*) No later than December 31, 1998, the Department of Justice shall prepare an informational pamphlet that shall be mailed to any member of the public who makes an inquiry using the "900" telephone number required by this section and who provides an address. The pamphlet shall provide basic information concerning appropriate steps parents, guardians, and other responsible adults can take to ensure a child is safe from a suspected child molester, including, but not limited to, how to identify suspicious activity by an adult, common facts and myths about child molesters, and how to obtain additional help and information. A notice to callers to the "900" telephone number that they will receive the pamphlet, if an address is provided, shall be included in the preamble required by this section.

(m) This section shall remain operative only until January 1, 2001, and as of that date is repealed unless a later enacted statute, which becomes effective on or before that date, deletes or extends that date.

SEC. 1.6. 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 266j; Section 267; paragraph (1) of subdivision (b) of Section 286, provided that the offense is a felony; paragraph (2) of subdivision (b), subdivision (c), (d), (f), (g), (i), (j), or (k) of Section 286; Section 288; paragraph (1) of subdivision (b) of Section 288a, provided that the offense is a felony; 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 or any offense which, if committed or attempted in this state, would have been punishable as one or more of the offenses described in this section. This requirement shall not be applied to a person whose duty to register has been terminated pursuant to paragraph (6) 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, and 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 and 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, municipal police departments of cities 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 departments of cities 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, 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 the purpose of the release of information is to allow members of the public to protect themselves and their children from sex offenders, and 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 designated 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" telephone 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" telephone 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" telephone 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" telephone 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 or Section 290, or any other statute expressly authorizing it.

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 a county jail not to exceed six months or by a fine not exceeding one thousand dollars

($1,000), or by both that imprisonment and fine. This subdivision shall 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, court case, or as otherwise authorized by subdivision (n) of Section 290. This subdivision shall not prohibit copying information by handwriting.

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 by both that imprisonment and fine.

(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 information, for purposes relating to any of the following, and that is 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" telephone 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 shall be 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) Any law enforcement agency and employees of law enforcement agencies shall be immune from liability for good faith conduct under this section. For the purposes of this section, "law enforcement agency" means the Attorney General, any district attorney, and any state agency expressly authorized by statute to investigate or prosecute law violators.

(j) 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.

(k) 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.

(*l*) No later than December 31, 1998, the Department of Justice shall prepare an informational pamphlet that shall be mailed to any member of the public who makes an inquiry using the "900" telephone number required by this section and who provides an address. The pamphlet shall provide basic information concerning appropriate steps parents, guardians, and other responsible adults can take to ensure a child is safe from a suspected child molester, including, but not limited to, how to identify suspicious activity by an adult, common facts and myths about child molesters, and how to obtain additional help and information. A notice to callers to the "900" telephone number that they will receive the pamphlet, if an address is provided, shall be included in the preamble required by this section.

(m) This section shall remain operative only until January 1, 2001, and as of that date is repealed unless a later enacted statute, which becomes effective on or before that date, deletes or extends that date.

SEC. 1.7. 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 Section 207 or 209 committed with the intent to violate Section 261, 286, 288, 288a, or 289; 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 266j; Section 267; paragraph (1) of subdivision (b) of Section 286, provided that the offense is a felony; paragraph (2) of subdivision (b), subdivision (c), (d), (f), (g), (i), (j), or (k) of Section 286; Section 288; paragraph (1) of subdivision (b) of Section 288a, provided that the offense is a felony; 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 or any offense which, if committed or attempted in this state, would have been punishable as one or more of the offenses described in this section. This

requirement shall not be applied to a person whose duty to register has been terminated pursuant to paragraph (5) 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, and 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 and 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, municipal police departments of cities 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 departments of cities 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, 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 the purpose of the release of information is to allow members of the public to protect themselves and their children from sex offenders, and 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 designated 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" telephone 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" telephone 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" telephone 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" telephone 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 or Section 290, or any other statute expressly authorizing it.

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 a county jail not to exceed six months or by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine. This subdivision shall 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, court case, or as otherwise authorized by subdivision (n) of Section

290. This subdivision shall not prohibit copying information by handwriting.

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 by both that imprisonment and fine.

(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 information, for purposes relating to any of the following, and that is 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" telephone 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 shall be 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) Any law enforcement agency and employees of law enforcement agencies shall be immune from liability for good faith conduct under this section. For the purposes of this section, "law enforcement agency" means the Attorney General, any district attorney, and any state agency expressly authorized by statute to investigate or prosecute law violators.

(j) 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.

(k) 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.

(*l*) No later than December 31, 1998, the Department of Justice shall prepare an informational pamphlet that shall be mailed to any member of the public who makes an inquiry using the "900" telephone number required by this section and who provides an address. The pamphlet shall provide basic information concerning appropriate steps parents, guardians, and other responsible adults can take to ensure a child is safe from a suspected child molester, including, but not limited to, how to identify suspicious activity by an adult, common facts and myths about child molesters, and how to obtain additional help and information. A notice to callers to the "900" telephone number that they will receive the pamphlet, if an address is provided, shall be included in the preamble required by this section.

(m) This section shall remain operative only until January 1, 2001, and as of that date is repealed unless a later enacted statute, which becomes effective on or before that date, deletes or extends that date.

SEC. 2. (a) Section 1.1 of this bill incorporates amendments to Section 290.4 of the Penal Code proposed by both this bill and AB 59. 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 290.4 of the Penal Code, (3) AB 290 and SB 314 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after AB 59, in which case Sections 1, 1.2, 1.3, 1.4, 1.5, 1.6, and 1.7 of this bill shall not become operative.

(b) Section 1.2 of this bill incorporates amendments to Section 290.4 of the Penal Code proposed by both this bill and AB 290. 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 290.4 of the Penal Code, (3) AB 59 and SB 314 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after AB 290, in which case Section 290.4 of the Penal Code as amended by AB 290 shall remain operative only until the operative date of this bill and Sections 1, 1.1, 1.3, 1.4, 1.5, 1.6, and 1.7 of this bill shall not become operative.

(c) Section 1.3 of this bill incorporates amendments to Section 290.4 of the Penal Code proposed by both this bill and SB 314. 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 290.4 of the Penal Code, (3) AB 59 and AB 290 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after

SB 314, in which case Sections 1, 1.1, 1.2, 1.4, 1.5, 1.6, and 1.7 of this bill shall not become operative.

(d) Section 1.4 of this bill incorporates amendments to Section 290.4 of the Penal Code proposed by this bill, AB 59, and AB 290. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 1998, (2) each bill amends Section 290.4 of the Penal Code, (3) SB 314 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 59 and AB 290, in which case Section 290.4 of the Penal Code as amended by AB 290 shall remain operative only until the operative date of this bill and Sections 1, 1.1, 1.2, 1.3, 1.5, 1.6, and 1.7 of this bill shall not become operative.

(e) Section 1.5 of this bill incorporates amendments to Section 290.4 of the Penal Code proposed by this bill, AB 59, and SB 314. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 1998, (2) each bill amends Section 290.4 of the Penal Code, (3) AB 290 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 59 and SB 314, in which case Sections 1, 1.1, 1.2, 1.3, 1.4, 1.6, and 1.7 of this bill shall not become operative.

(f) Section 1.6 of this bill incorporates amendments to Section 290.4 of the Penal Code proposed by this bill, AB 290, and SB 314. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 1998, (2) each bill amends Section 290.4 of the Penal Code, (3) AB 59 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 290 and SB 314, in which case Section 290.4 of the Penal Code as amended by AB 290 shall remain operative only until the operative date of this bill and Sections 1, 1.1, 1.2, 1.3, 1.4, 1.5, and 1.7 of this bill shall not become operative.

(g) Section 1.7 of this bill incorporates amendments to Section 290.4 of the Penal Code proposed by this bill, AB 59, AB 290, and SB 314. It shall only become operative if (1) all four bills are enacted and become effective on or before January 1, 1998, (2) each bill amends Section 290.4 of the Penal Code, and (3) this bill is enacted after AB 59, AB 290, and SB 314, in which case Section 290.4 of the Penal Code as amended by AB 290 shall remain operative only until the operative date of this bill and Sections 1, 1.1, 1.2, 1.3, 1.4, 1.5, and 1.6 of this bill shall not become operative.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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

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## CHAPTER 823

An act to amend Section 16367.5 of the Government Code, relating to energy assistance.

[Approved by Governor October 8, 1997. Filed with Secretary of State October 9, 1997.]

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

SECTION 1. Section 16367.5 of the Government Code is amended to read:

16367.5. The Department of Community Services and Development shall receive and administer the federal Low-Income Home Energy Assistance Program Block Grant, provided for pursuant to the Low-Income Home Energy Assistance Act of 1981, as amended (42 U.S.C. Sec. 8621 et seq.). The department shall afford local service providers maximum flexibility and control, within the parameters of federal and state law, in the planning, administration, and delivery of Low-Income Home Energy Assistance Program Block Grant services. Local service providers shall be defined as private, nonprofit, and public agencies designated in accordance with Public Law 97-35, as amended. The formation of service regions beyond those that were in place in 1995, or those that were in place in Los Angeles County in January 1997, shall occur only with the concurrence of service providers within the proposed regions. The department shall allocate funds received as follows:

(a) For federal fiscal year 1998, up to 7.3 percent of the state's total federal allocation for the Low-Income Home Energy Assistance Program shall be retained by the Department of Community Services and Development for purposes of overall planning and administration. The department shall spend at least 2.3 percent of this 7.3 percent on activities to improve the administrative efficiency of the program. At least 2.7 percent of the state's total federal allocation of the Low-Income Home Energy Assistance Program shall be allocated to local service providers for purposes of planning and administration.

For federal fiscal year 1999, up to 6 percent of the state's total federal allocation of the Low-Income Home Energy Assistance Program shall be retained by the Department of Community Services and Development for purposes of overall planning and administration. The department shall spend at least 1 percent of this

6 percent on activities to improve the administrative efficiency of the program. At least 4 percent of the state's total federal allocation for the Low-Income Home Energy Assistance Program shall be allocated to local service providers for purposes of planning and administration.

Beginning in federal fiscal year 2000, up to 5 percent of the state's total federal allocation for the Low-Income Home Energy Assistance Program shall be retained by the Department of Community Services and Development for purposes of overall planning and administration. At least 5 percent of the state's total federal allocation for the Low-Income Home Energy Assistance Program shall be allocated to local service providers for purposes of planning and administration.

Upon achievement of administrative efficiencies, or no later than June 30, 2001, the department and the local service providers committee established pursuant to subdivision (j) shall examine the appropriate split of administrative funding between the state and local services providers necessary to achieve the intent of federal law regarding the Low-Income Home Energy Assistance Program. The department shall not retain more than 5 percent of the state's total federal allocation for the Low-Income Home Energy Assistance Program.

(b) Services under this section shall be available to households in which one or more individuals are receiving:

(1) Temporary Assistance for Needy Families under the state's plan approved under Public Law 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, and Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code.

(2) Supplemental Security Income payments under Title XVI of the federal Social Security Act (42 U.S.C. Sec. 1381 et seq.) and Chapter 3 (commencing with Section 12000) of Part 3 of Division 9 of the Welfare and Institutions Code.

(3) County general assistance under Part 5 (commencing with Section 17000) of Division 9 of the Welfare and Institutions Code.

(4) Food stamps received under the Food Stamp Act of 1977 and pursuant to Chapter 10 (commencing with Section 18900) of Part 6 of Division 9 of the Welfare and Institutions Code.

(5) Payments under Section 415, 521, 541, or 542 of Title 38 of the United States Code, or under Section 306 of the Veterans' and Survivors' Pension Improvement Act of 1978.

(6) Households with incomes that do not exceed the greater of:

(A) An amount equal to 150 percent of the poverty level for this state.

(B) An amount equal to 60 percent of the state median income, except that no household may be excluded from eligibility solely on the basis of household income if that income is less than 110 percent of the poverty level for this state, but priority may be given to those

households with the highest home energy costs or needs in relation to household income.

(c) An amount of not less than 15 percent and up to the maximum allowed by federal law of the total federal allocation shall be allocated for weatherization services for eligible individuals. For each program year, to the extent that the state is eligible, the Department of Community Services and Development shall apply to the appropriate federal agencies for any waivers that may be necessary to ensure that the amount available for the purposes of this subdivision will be the maximum amount allowable under federal law. For the purposes of this subdivision, weatherization shall include all energy conservation measures and energy efficient appliances that are cost-effective and improve energy efficiency. The department shall allocate 5 percent of the weatherization program allocation to local service providers for outreach and related activities.

(d) At the discretion of local service providers, the state shall allocate the maximum amount allowable under federal law to local service providers to provide services that encourage and enable households to reduce their home energy needs, thus reducing the need for energy assistance, including needs assessments, counseling, and assistance with energy vendors, in accordance with Section 2605(b)(16) of Public Law 97-35, as amended.

(e) Based on data from prior years, a reasonable amount of available funds, as determined jointly by the department and the local service providers, shall be reserved until March 15 of each program year for the Energy Crisis Intervention Program. Local service providers shall submit proposed funding levels with supporting data to the department in a timely manner for inclusion in the state plan. The department shall approve local funding requests that are determined to be in compliance with federal law. These funds shall only be used for emergency assistance to eligible individuals for programs specified in this subdivision, who give evidence of one or more of the following conditions:

(1) Proof of utility shutoff notice.

(2) Proof of energy termination.

(3) Insufficient funds to establish a new energy account.

(4) Insufficient funds to pay a delinquent utility bill.

(5) Insufficient funds to pay the cost of space heating devices where no alternative source of space heating is reasonably available.

(6) Insufficient funds to pay for essential firewood, oil, or propane.

(7) Insufficient funds to pay for the cost of emergency repairs to heating and cooling units, the emergency replacement of heating and cooling units, or both.

(8) Insufficient funds to pay energy costs for a household where a household member's medical condition requires use of life support or climate and temperature control systems.

(9) Other conditions that may be included in the state plan.

The energy crisis intervention program shall not include advocacy, community mobilization, or community planning. After March 15 of each program year, local administrative agencies shall have the option of continuing to offer energy crisis intervention services or of reallocating a portion of or all unspent energy crisis intervention funds into direct assistance payment services.

The department shall allocate 5 percent of the energy crisis intervention program allocation to the local service providers for outreach and related services.

The Department of Community Services and Development shall retain all funds associated with Energy Crisis Intervention Program payments for gas and electric utility service, and shall make payments for eligible households' gas or electric service accounts directly to the utilities. The department may use alternative payment methods when direct payments to the utilities have not been arranged.

(f) The remainder of the total federal allocation shall be utilized for aid for home energy costs for direct assistance payments. The department shall retain all funds associated with Home Energy Assistance Program direct assistance payments for gas and electric utility service, and shall make payments for eligible households' gas or electric service accounts directly to the utilities. The department may use alternative payment methods when direct payments to the utilities have not been arranged.

(g) The Department of Community Services and Development shall contract with local public or private nonprofit agencies, or both, to provide outreach, intake, and other activities to enroll eligible individuals in the program components prescribed by this section.

(h) The program components provided for in this section shall include activities to enroll households that have the highest home energy needs as determined by taking into account both the energy burden of these households, and the unique situation of these households that results from having members of vulnerable populations, including very young children, individuals with disabilities, and frail older individuals, as provided for by Section 2603(3) of Public Law 97-35, as amended, and to educate recipients about general energy conservation practices and about the availability of state and utility programs for free weatherization of low-income homes.

(i) The department shall allocate 5 percent of the direct assistance payment funds to the local service providers for outreach and related services in operating the direct home energy assistance payment program.

(j) The department shall establish a local service providers committee to act in an advisory capacity in the development of the annual Low-Income Home Energy Assistance Program state plan. The membership of the committee shall include one voting representative chosen by each local service provider that has a

Low-Income Home Energy Assistance Program contract with the state and one representative of each interested utility company. Each local service provider may, at its option, assign its vote in writing to another entity, such as a provider association, to represent its interests.

(k) By June 30, 1998, the Department of Community Services and Development shall submit a plan to the Health and Welfare Agency to reduce state administrative costs by January 1, 2000, to no more than 5 percent of the total federal allocation for the Low-Income Home Energy Assistance Program. This plan shall be developed in consultation with the local service providers committee and shall include measurable objectives, milestones, and timelines.

It shall also include, among other strategies, a plan to automate a substantial portion of the Low-Income Home Energy Assistance Program by no later than January 1, 2001. The department shall consult with the Department of Finance and the Health and Welfare Data Center in developing this automation technology.

The Department of Community Services and Development shall provide quarterly status updates to the Health and Welfare Agency and the local service providers committee established pursuant to subdivision (j) on progress made in implementing the plans and achieving the objectives and milestones specified in this subdivision. On an annual basis, from the year 1999 to the year 2001, the department shall appear before the Legislature and provide a status report on its efforts to achieve increased administrative efficiency.

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## CHAPTER 824

An act to amend Section 116 of the Insurance Code, relating to insurance.

[Approved by Governor October 8, 1997. Filed with Secretary of State October 9, 1997.]

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

SECTION 1. Section 116 of the Insurance Code is amended to read:

116. (a) Automobile insurance includes insurance of automobile owners, users, dealers, or others having insurable interests therein, against hazards incident to ownership, maintenance, operation, and use of automobiles, other than loss resulting from accident or physical injury, fatal or nonfatal, to, or death of, any natural person.

(b) Automobile insurance also includes any contract of warranty, or guaranty that promises service, maintenance, parts replacement, repair, money, or any other indemnity in event of loss of or damage to a motor vehicle or any part thereof from any cause, including loss

of or damage to or loss of use of the motor vehicle by reason of depreciation, deterioration, wear and tear, use, obsolescence, or breakage if made by a warrantor or guarantor who or which as such is doing an insurance business.

(c) The making of a contract covering only defects in material and workmanship, which may include towing and substitute transportation, in exchange for a separately stated charge where it is merely incidental to the business of selling or leasing automobiles, shall not be deemed insurance, provided, that the maker of the contract has an insurance policy with an admitted automobile insurer providing coverage for the making of those contracts.

The policy shall include a loss payee endorsement that provides coverage to any lending institution as its interest may appear. In addition, the contract shall conspicuously state the name and address of the licensed underwriting insurer and contain a statement that the holder shall be entitled to make a direct claim against that insurer upon the failure of the maker to pay any claim within 60 days after proof of loss has been filed with the maker. The requirements of this section shall not apply where the maker is a manufacturer, distributor, or importer of automobiles.

(d) A contract covering only defects in material and workmanship, which may include towing and substitute transportation, in exchange for a separately stated charge, where the contract is sold by an automobile dealer incidental to the automobile dealer's business of selling or leasing automobiles and the legal obligor is other than the automobile dealer shall not be deemed insurance, provided that the legal obligor of the contract complies with all of the following requirements:

(1) Maintain an insurance policy with an admitted automobile insurer providing coverage for the obligation of those contracts. The policy shall include a loss payee endorsement that provides coverage to any lending institution as its interest may appear. In addition, the contract shall conspicuously state the name and address of the licensed underwriting insurer and contain a statement that the holder shall be entitled to make a direct claim against that insurer upon the failure of the legal obligor to pay any claim within 60 days after proof of loss has been filed with the party designated in the contract.

(2) Possess a fire and casualty broker agent license.

(3) Comply with the requirements of subparagraph (A) or (B), as follows:

(A) Comply with both of the following:

(i) Maintain a funded reserve account for its obligations under its contracts issued and outstanding in this state. The reserves shall not be less than 40 percent of gross consideration received, less claims paid, on the sale of the contract for all in-force contracts. The reserve account shall be subject to examination and review by the commissioner.

(ii) Place in trust with the commissioner a financial security deposit having a value of not less than 5 percent of the gross consideration received, less claims paid, on the sale of the contract for all contracts issued and in force, but not less than twenty-five thousand dollars ($25,000) consisting of one of the following:

(I) A surety bond issued by an authorized surety.

(II) Securities of the type eligible for deposit by admitted insurers.

(III) Cash.

(IV) A letter of credit issued by a qualified financial institution.

(V) Another form of security prescribed by regulations issued by the commissioner.

(B) (i) Maintain a net worth of one hundred million dollars ($100,000,000).

(ii) An obligor that complies with this subparagraph shall, upon request, provide the commissioner with a copy of the obligor's financial statements or the obligor's parent company's financial statements. The financial statement shall be the most recent Form 10-K filed with the Securities and Exchange Commission within the last calendar year, or if the obligor does not file with the Securities and Exchange Commission, a copy of the obligor's audited financial statements, that shows a net worth of the obligor or its parent company of at least one hundred million dollars ($100,000,000). If the obligor's parent company's Form 10-K or audited financial statements are filed to meet the obligor's financial stability requirement, then the parent company shall agree to guarantee the obligations of the obligor relating to contracts of the obligor in this state.

(e) The doing or proposing to do any business in substance equivalent to the business described in this section in a manner designed to evade the provisions of this section is the doing of an insurance business.

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## CHAPTER 825

An act to amend Sections 8473.3, 8802, 8921, 8925, 8926, 33006, 33050, 33310, 39619, 41601, 44865, 46307, 48661, 49500, 49513, 49516, 49531, 49536, 49550.3, 49553, 49559, 51230, 51747.5, 94153, 94774, and 94778 of, to amend and renumber Section 8277.5 of, to repeal Sections 49514 and 49532 of, and to repeal, amend, and add Sections 44757.4 and 44759.5 of, the Education Code, to amend Section 53646 of the Government Code, and to amend Section 1 of Chapter 58 of the Statutes of 1997 and Section 3 of Chapter 340 of the Statutes of 1997 relating to education, making an appropriation therefor and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 9, 1997. Filed with Secretary of State October 9, 1997.]

On this date I am signing Assembly Bill 287.

This bill would make various appropriations and changes to the Education Code as recommended by the California Department of Education.

I am reducing Section 41 by $600,000 to reduce funding for the Pupil Testing Incentive program that is not needed to close out the program in 1997–98 or support the new STAR testing program.

PETE WILSON, Governor

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

SECTION 1. Section 8277.5 of the Education Code, as amended by Chapter 299 of the Statutes of 1997, is amended and renumbered to read:

8278.3. (a) (1) The Child Care Facilities Revolving Fund is hereby established in the State Treasury to provide funding for the purchase of new relocatable child care facilities for lease to school districts and contracting agencies who provide child care and development services, pursuant to this chapter. The Superintendent of Public Instruction may transfer state funds appropriated for child care facilities into this fund for allocation to school districts and contracting agencies, as specified, for the purchase, transportation, and installation of facilities for replacement and expansion of capacity. School districts and contracting agencies using facilities made available by the use of these funds shall be charged a leasing fee, either at a fair market value for those facilities or at an amount sufficient to amortize the cost of purchase and relocation, whichever is lower, over a 10-year period. Upon full repayment of the purchase and relocation costs, title shall transfer from the State of California to the school district or contracting agency. The Superintendent of Public Instruction shall deposit all revenue derived from the lease payments into the Child Care Facilities Revolving Fund.

(2) Notwithstanding Section 13340 of the Government Code, all moneys in the fund, including moneys deposited from lease payments, shall be continuously appropriated, without regard to fiscal year, to the Superintendent of Public Instruction for expenditure pursuant to this article.

(b) On or before November 1, 1997, the Superintendent of Public Instruction shall submit a plan to the Governor's Office of Child Development and Education, the Department of Finance, and the Legislative Analyst's Office. This plan shall specify the application procedures, the allowable uses of the funds, and the form of the agreement, including, but not necessarily limited to, provisions to protect the state's interest, including provisions relating to maintenance and the event of contract termination.

(c) On or before August 1, 1998, and on or before August 1 of each fiscal year thereafter, the Superintendent of Public Instruction shall submit to the Governor's Office of Child Development and Education, the Department of Finance, and the Legislative Analyst's Office a report detailing the number of funding requests received,

the types of agencies which received this facilities funding, the increased capacity that these facilities generated, a description of how the facilities are being used, and a projection of the lease payments collected and the funds available for future use.

SEC. 2. Section 8473.3 of the Education Code, as amended by Chapter 299 of the Statutes of 1997, is amended to read:

8473.3. If an extended day care program contractor fails to operate at 98 percent of the minimum days of operation required in its contract or ceases operations, or the contract is terminated prior to the end of the contract term, the maximum reimbursable amount shall be reduced in proportion to the percentage of the contract minimum days of operation that the contractor was not in operation.

SEC. 3. Section 8802 of the Education Code is amended to read:

8802. For the purposes of this chapter, the following definitions apply:

(a) "Consortium" means two or more local educational agencies.

(b) "Cooperating agency" means any federal, state, or local public or private nonprofit agency that agrees to offer support services at a schoolsite through a program implemented under this chapter.

(c) "Council" means the Healthy Start Support Services for Children Program Council.

(d) "Lead agency" means the State Department of Education.

(e) "Local educational agency" means a school district or county office of education.

(f) "Private partner" means a private business or foundation that provides financial assistance or otherwise assists a support services program operated under this chapter.

(g) "Qualifying school" means a school that is any of the following:

(1) A school that maintains kindergarten or any of grades 1 to 6, inclusive, in which 50 percent or more of the enrolled pupils either (A) are from families that receive benefits from the Aid to Families with Dependent Children program or any successor program, have limited English proficiency, as identified pursuant to Section 52163, or both, or (B) are eligible to receive free or reduced-price meals under Section 49552.

(2) A school that maintains any of grades 7 to 12, inclusive, in which 35 percent or more of the enrolled pupils either (A) are from families that receive benefits from the Aid to Families with Dependent Children program or any successor program, have limited English proficiency, as identified pursuant to Section 52163, or both, or (B) are eligible to receive free or reduced-price meals under Section 49552.

(3) A school that does not satisfy the criteria in paragraph (1) or (2) but that demonstrates other factors that warrant its consideration, including, for example, exceptional need, potential to serve as a model program, or service to a particular target population. No more than 10 percent of the schools that participate in the program established by this chapter may be schools that qualify

under this paragraph. A school that receives a grant under this paragraph shall ensure that the following pupils in that school are given priority to receive services provided with the grant money: (A) are from families that receive benefits from the Aid to Families with Dependent Children program or any successor program, have limited English proficiency, as identified pursuant to Section 52163, or both, or (B) are eligible to receive free or reduced-price meals under Section 49552.

(h) "Secretary" means the Secretary of Child Development and Education.

(i) "Agency secretary" means the Secretary of the Health and Welfare Agency.

(j) "Superintendent" means the Superintendent of Public Instruction.

(k) "Support services" means services that will enhance the physical, social, emotional, and intellectual development of children and their families.

SEC. 4. Section 8921 of the Education Code is amended to read:

8921. For purposes of this chapter, the following definitions apply:

(a) "Council" means the Healthy Start Support Services for Children Program Council established under Section 8803. This state interagency council is responsible for reviewing the Teenage Pregnancy Prevention Grant Program applications and any other duties imposed on the interagency council pursuant to this chapter.

(b) "Lead agency" means the State Department of Education.

(c) "Local educational agency" means a school district or county office of education.

(d) "Local collaborative partner" means an agency or organization in the community that agrees to actively participate in implementing the grant and in helping to achieve the proposed student results.

(e) "Superintendent" means the Superintendent of Public Instruction.

SEC. 5. Section 8925 of the Education Code is amended to read:

8925. (a) The Legislature hereby establishes the Teenage Pregnancy Prevention Grant Program designed for pupils in elementary and secondary schools.

(b) The superintendent shall award grants based upon the recommendations of the council.

(c) Grants shall be awarded for a period not to exceed five years.

(d) Grant amounts awarded by the superintendent, in consultation with the council, shall be based on the benchmark of two hundred dollars ($200) per youth, per year. However, each grant amount shall be determined based on the individual program, taking into account the following factors:

(1) The number of youths served.

(2) The kinds of support and educational services provided to the youths.

(3) The number of paid personnel and consultants necessary for the program.

(4) The training costs for the providers.

(5) Printing and promotion costs.

(6) Evaluation costs.

(7) Other direct costs, such as insurance, telephone, space, and photocopying.

(8) Whether parents or guardians are included in the grant.

(e) Grants may include one-time startup costs.

(f) Startup and ongoing grant awards may be used for, among other things, purchasing equipment and supplies, hiring staff, designing a program evaluation, or hiring a consultant.

(g) All local programs funded through the Teenage Pregnancy Prevention Grant Program shall:

(1) Be modeled after existing strategies designed for pupils in elementary and secondary schools that have been proven effective in delaying the onset of sexual activity and reducing the incidence of pregnancy among schoolage youth. The best method for an applicant for an initial or subsequent grant to show effectiveness is through presentation of persuasive evaluation data for the model or existing program. Examples of strategies found to be effective in delaying the onset of sexual activity and reducing pregnancy among schoolage youth include utilizing case management, providing age appropriate health education including abstinence education, increasing the sense of a positive future, raising self-esteem, and providing opportunity for improving decisionmaking and goal-setting skills.

(2) Have demonstrated readiness to begin operation of a program or expand an existing teen pregnancy prevention program.

(h) To the extent possible, in awarding grants the superintendent shall give consideration to program applicants that meet one or more of the following criteria:

(1) Are located in counties with the highest teenage birthrates, or are located in geographical areas defined by ZIP Codes in which there are high teenage birthrates.

(2) Will target youth before they become sexually active.

(3) Will target youth with demonstrated risk factors, including youth living in poverty, youth that have low basic skills and academic achievement, youth that have siblings or a parent who was a teenage parent, youth that engage in multi-high risk behaviors such as alcohol use, drug use, and sexual activity, youth having low self-esteem, youth participating in sexual activity with adult men, and youth that have been sexually victimized.

(4) Are programs that are age-appropriate, and culturally and community sensitive for the target population.

SEC. 6. Section 8926 of the Education Code is amended to read:

8926. (a) Each local educational agency interested in being awarded 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.

(b) Each grant application submitted shall include all of the following:

(1) A description of the proposed program plan.

(2) Documentation of the need for program operation support.

(3) A description of the program goals and objectives.

(4) A description of the proposed program, including the target population.

(5) Documentation of the effectiveness of the strategies upon which the proposed or ongoing program is based.

(6) A budget, including the amount of the requested funding and existing resources to be used or redirected.

(7) Agencies responsible for the implementation of the program.

(8) A procedure for the evaluation of the program.

(9) A description of the governing mechanism by which the program will be implemented, including local decisionmaking responsibilities and parental involvement, organizational needs, anticipated problems and procedures to solve them, and incentives for collaboration and participation incentives to personnel.

(c) The program plan shall include all of the following:

(1) 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, such as costs incurred by other agencies, and cost savings, if any.

(2) A service evaluation component, including input, process, and outcome indicators, quality assessment, and the process by which these measures will be taken. The program plan shall target youth at high risk of teenage childbearing or parenting, and shall keep track of all the following long-term outcome measures for the youth participating in the program, to the extent possible:

(A) Any reduction in teenage birthrates.

(B) Any increase in high school completion rates.

SEC. 7. Section 33006 of the Education Code is amended to read:

33006. (a) Members of the board shall receive their actual and necessary traveling expenses while on official business. Each member shall also receive the allowance in excess of expenses specified in Section 11564.5 of the Government Code for each day he or she is acting in an official capacity.

(b) Effective January 1, 1997, when a board member is employed by a public school and, while the board member is acting in his or her official capacity as a member of the board, and his or her employer is required to hire a substitute teacher to replace that board member, then the board may, from funds appropriated for support of the board's activities, reimburse that public school for the daily cost of

hiring the substitute teacher during the board member's absence from his or her employment.

SEC. 8. Section 33050 of the Education Code, as amended by Chapter 299 of the Statutes of 1997, is amended to read:

33050. (a) The governing board of a school district or a county board of education may, on a districtwide or countywide basis or on behalf of one or more of its schools or programs, after a public hearing on the matter, request the State Board of Education to waive all or part of any section of this code or any regulation adopted by the State Board of Education that implements a provision of this code that may be waived, except:

(1) Article 1 (commencing with Section 15700) and Article 2 (commencing with Section 15780) of Chapter 6 of Part 10.

(2) Chapter 8 (commencing with Section 16000) and Chapter 9 (commencing with Section 16400) of Part 10.

(3) Chapter 22 (commencing with Section 17700), Chapter 23 (commencing with Section 17760), and Chapter 25 (commencing with Section 17785) of Part 10.

(4) Part 13 (commencing with Section 22000).

(5) Section 35735.1.

(6) Paragraph (8) of subdivision (a) of Section 37220.

(7) The following provisions of Part 23:

(A) Chapter 1 (commencing with Section 39000).

(B) Article 1 (commencing with Section 39100) to Article 6 (commencing with Section 39210), inclusive, of Chapter 2.

(C) Section 39248; Sections 39313 to 39325, inclusive; Sections 39360.5 and 39363 and subdivision (a) of Section 39363.5; and Sections 39618 to 39621, inclusive.

(8) Chapter 2 (commencing with Section 44200) of Part 25, relating to teacher credentialing.

(9) Sections 52163, 52165, 52166, and 52178.

(10) Article 3 (commencing with Section 52850) of Chapter 12 of Part 28.

(11) The identification and assessment criteria relating to any categorical aid program, including Sections 52164.1 and 52164.6.

(12) Sections 41000 to 41360, inclusive; Sections 41420 to 41423, inclusive; Sections 41600 to 41866, inclusive; Sections 41920 to 42911, inclusive; Article 3 (commencing with Section 44930) of Chapter 4 of Part 25; Part 26 (commencing with Section 46000) and Chapter 6 (commencing with Section 48900) and Chapter 6.5 (commencing with Section 49060) of Part 27; or regulations in Title 5 of the California Code of Regulations adopted pursuant to Article 3 (commencing with Section 44930) of Chapter 4 of Part 25.

(13) Section 51513.

(14) Chapter 6.10 (commencing with Section 52120) of Part 28, relating to the Class Size Reduction Program.

(15) Section 56364.1, except that this restriction shall not prohibit the State Board of Education from approving any waiver of Section 56364 relating to full inclusion.

(b) Any waiver of provisions related to the programs identified in Section 52851 shall be granted only pursuant to Article 3 (commencing with Section 52850) of Chapter 12 of Part 28.

(c) The waiver of an advisory committee required by law shall be granted only pursuant to Article 4 (commencing with Section 52870) of Chapter 12 of Part 28.

(d) Any request for a waiver submitted by the governing board of a school district or a county board of education pursuant to subdivision (a) shall include a written statement as to (1) whether the exclusive representative of employees, if any, as provided in Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, participated in the development of the waiver and (2) the exclusive representative's position regarding the waiver.

(e) Any request for a waiver submitted pursuant to subdivision (a) relating to a regional occupational center or program established pursuant to Article 1 (commencing with Section 52300) of Chapter 9 of Part 28, that is operated by a joint powers entity established pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code, shall be submitted as a joint waiver request for each participating school district and shall meet both of the following conditions:

(1) Each joint waiver request shall comply with all of the requirements of this article.

(2) The submission of a joint waiver request shall be approved by a unanimous vote of the governing board of the joint powers agency.

(f) The governing board of any school district requesting a waiver under this section of any provision of Article 5 (commencing with Section 39390) of Chapter 3 of Part 23 shall provide written notice of any public hearing it conducted pursuant to subdivision (a), at least 30 days prior to the hearing, to each public agency identified under Section 39394.

SEC. 9. Section 33310 of the Education Code is amended to read:

33310. The State Department of Education may sell any educational materials and directories related to its scope and duties.

SEC. 10. Section 39619 of the Education Code is amended to read:

39619. (a) Whenever, in any given fiscal year, a school district has budgeted, exclusive of state matching funds and district funds previously matched pursuant to subdivision (b), in its deferred maintenance fund established pursuant to Section 39618 an amount equal to, or greater than, that amount the district expended from its general fund for major maintenance, repair, or modernization of existing school buildings, as specified in Section 39618, exclusive of categorical aid funds and any proceeds from the sale of district property which were expended for the purpose of the district

deferred maintenance account, in either the 1978–79 or 1979–80 fiscal year, adjusted annually to the current fiscal year in conformance with the percentage change in the district revenue limit computed pursuant to Section 42237 or 42238, the Superintendent of Public Instruction shall so certify to the State Allocation Board.

(b) The State Allocation Board shall apportion, from the State School Deferred Maintenance Fund, to school districts an amount equal to one dollar ($1) for each one dollar ($1) of local funds up to a maximum of $^1/_2$ percent of the district's current-year revenue limit average daily attendance multiplied by the average, per unit of average daily attendance, of the total expenditures and ending fund balances of the total general funds and adult education funds for districts of similar size and type, as defined in subdivision (b) of Section 42238.4, for the second prior fiscal year, exclusive of any amounts expended for capital outlay or debt service, to the extent of funds available pursuant to Chapter 24 (commencing with Section 17780) of Part 10.

(c) Notwithstanding subdivision (a), in order to be eligible to receive state aid pursuant to subdivision (b), no district shall be required to budget from local district funds an amount greater than $^1/_2$ percent of the district's current-year revenue limit average daily attendance, multiplied by the average, per unit of average daily attendance, of the total expenditures and ending fund balances of the total general funds and adult education funds for districts of similar size and type, as defined in subdivision (b) of Section 42238.4 for the second prior fiscal year, exclusive of any amounts expended for capital outlay or debt service.

SEC. 11. Section 41601 of the Education Code is amended to read:

41601. For the purposes of this chapter, the governing board of each school district shall report to the Superintendent of Public Instruction during each fiscal year the average daily attendance of the district for all full school months during (1) the period between July 1 and December 31, inclusive, to be known as the "first period" report for the first principal apportionment, and (2) the period between July 1 and April 15, inclusive, to be known as the "second period" report for the second principal apportionment. Each county superintendent of schools shall report the average daily attendance for the schools and classes maintained by him or her and the average daily attendance for the county school tuition fund.

Each report shall be prepared in accordance with instructions on forms prescribed and furnished by the Superintendent of Public Instruction. Average daily attendance shall be computed in the following manner:

(a) The average daily attendance in the regular elementary, middle, and high schools, including continuation schools and classes, opportunity schools and classes, and special day classes, maintained by the school districts shall be determined by dividing the total number of days of attendance allowed in all full school months in each

period by the number of days the schools are actually taught in all full school months in each period, exclusive of Saturdays or Sundays and exclusive of weekend makeup classes pursuant to Section 37223.

(b) The attendance for schools and classes maintained by a county superintendent of schools and the county school tuition fund shall be reported in the same manner as reported by school districts. The average daily attendance in special education classes operated by county superintendents of schools shall be determined in the same manner as all other attendance under subdivision (a). The average daily attendance in all other schools and classes maintained by the county superintendents of schools shall be determined by dividing the total number of days of attendance in all full school months in the first period by a divisor of 70, in the second period by 135 and at annual time by 175. For attendance in special classes and centers pursuant to Section 56364, the average daily attendance shall be reported by the county superintendents of schools, but credited for revenue limit purposes to the district in which the pupil resides.

(c) The days of attendance in classes for adults and regional occupational centers programs shall be reported in the same manner as all other attendance under subdivision (a). The average daily attendance in those schools and classes shall be determined by dividing the total number of days of attendance in all full school months in the first period by a divisor of 85 in the second period by 135 and at annual time by 175.

SEC. 12. Section 44757.4 of the Education Code, as added by Chapter 286 of the Statutes of 1997, is repealed.

SEC. 13. Section 44757.4 of the Education Code, as added by Chapter 299 of the Statutes of 1997, is amended to read:

44757.4. (a) The Superintendent of Public Instruction shall award grants to school districts only for the highest quality proposals that demonstrate a clear understanding of a balanced, comprehensive reading instruction program based on current and confirmed research.

(b) A school district shall propose a project budget to carry out the proposed reading staff development. The minimum grant awarded shall be for no less than one thousand dollars ($1,000), and the maximum grant awarded to a school district shall not exceed twice the product determined by multiplying the result of paragraph (1) by the result of paragraph (2).

(1) The total amount of funding provided in the Budget Act of 1997 for the purposes of this chapter, divided by the number of pupils enrolled statewide in kindergarten and grades 1 to 8, inclusive, in the 1997–98 fiscal year.

(2) The number of pupils enrolled in the school district in kindergarten and grades 1 to 8, inclusive.

(c) For purposes of this section, the certified California Basic Educational Data System (CBEDS) count from the fiscal year prior

to the year for which the funds are appropriated will be used to determine enrollment.

(d) This section shall remain in effect only until July 1, 1998, and as of that date is repealed, unless a later enacted statute, that is enacted before July 1, 1998, deletes or extends that date.

SEC. 14. Section 44757.4 is added to the Education Code, to read:

44757.4. (a) The Superintendent of Public Instruction shall award grants to school districts only for the highest quality proposals that demonstrate a clear understanding of a balanced, comprehensive reading instruction program based on current and confirmed research.

(b) A school district shall propose a project budget to carry out the proposed reading staff development. The minimum grant awarded shall be for no less than one thousand dollars ($1,000), and the maximum grant awarded to a school district shall not exceed twice the product determined by multiplying the result of paragraph (1) by the result of paragraph (2).

(1) The total amount of funding provided in the annual Budget Act or in any other act for the purposes of this chapter in any fiscal year divided by the number of pupils enrolled statewide in kindergarten and grades 1 to 3, inclusive, in that fiscal year.

(2) The number of pupils enrolled in the school district in kindergarten and grades 1 to 3, inclusive.

(c) For purposes of this section, the certified California Basic Educational Data System (CBEDS) count from the fiscal year prior to the year for which the funds are appropriated shall be used to determine enrollment.

(d) This section shall become operative on July 1, 1998.

SEC. 15. Section 44759.5 of the Education Code, as added by Chapter 286 of the Statutes of 1997, is repealed.

SEC. 16. Section 44759.5 of the Education Code, as added by Chapter 299 of the Statutes of 1997, is amended to read:

44759.5. (a) The Superintendent of Public Instruction shall award grants to school districts only for the highest quality proposals that demonstrate a clear understanding of a balanced, comprehensive reading instruction program based on current and confirmed research.

(b) A school district shall propose a project budget to carry out the proposed reading staff development. The minimum grant awarded shall be for no less than one thousand dollars ($1,000), and the maximum grant awarded to a school district shall not exceed twice the product determined by multiplying the result of paragraph (1) by the result of paragraph (2).

(1) The total funding provided in the Budget Act of 1997 for the purposes of this chapter, divided by the number of pupils enrolled statewide in kindergarten and grades 4 to 8, inclusive, in the 1997–98 fiscal year.

(2) The number of pupils enrolled in the school district in grades 1 to 8, inclusive.

(c) For purposes of this section, the certified California Basic Educational Data System (CBEDS) count from the fiscal year prior to the year for which the funds are appropriated will be used to determine enrollment.

(d) This section shall remain in effect only until July 1, 1998, and as of that date is repealed, unless a later enacted statute, that is enacted before July 1, 1998, deletes or extends that date.

SEC. 17. Section 44759.5 is added to the Education Code, to read:

44759.5. (a) The Superintendent of Public Instruction shall award grants to school districts only for the highest quality proposals that demonstrate a clear understanding of a balanced, comprehensive reading instruction program based on current and confirmed research.

(b) A school district shall propose a project budget to carry out the proposed reading staff development. The minimum grant awarded shall be for no less than one thousand dollars ($1,000), and the maximum grant awarded to a school district shall not exceed twice the product determined by multiplying the result of paragraph (1) by the result of paragraph (2).

(1) The total funding provided in the annual Budget Act or in any other act for the purposes of this chapter in any fiscal year divided by the number of pupils enrolled statewide in grades 4 to 8, inclusive, in that fiscal year.

(2) The number of pupils enrolled in the school district in grades 4 to 8, inclusive.

(c) For purposes of this section, the certified California Basic Educational Data System (CBEDS) count from the fiscal year prior to the year for which the funds are appropriated shall be used to determine enrollment.

(d) This section shall become operative on July 1, 1998.

SEC. 18. Section 44865 of the Education Code is amended to read:

44865. A valid teaching credential issued by the State Board of Education or the Commission for Teacher Preparation and Licensing, based on a bachelor’s degree, student teaching, and special fitness to perform, shall be deemed qualifying for assignment as a teacher in the following assignments, provided that the assignment of a teacher to a position for which qualifications are prescribed by this section shall be made only with the consent of the teacher:

(a) Home teacher.

(b) Classes organized primarily for adults.

(c) Hospital classes.

(d) Necessary small high schools.

(e) Continuation schools.

(f) Alternative schools.

(g) Opportunity schools.

(h) Juvenile court schools.
(i) County community schools.
(j) District community day schools.
SEC. 19. Section 46307 of the Education Code is amended to read:
46307. Attendance of individuals with exceptional needs, identified pursuant to Chapter 4 (commencing with Section 56300) of Part 30, enrolled in a special day class or given instruction individually or in a home, hospital, or licensed children's institution who attend school for either the same number of minutes that constitutes a minimum schoolday pursuant to Chapter 2 (commencing with Section 46100), or for the number of minutes of attendance specified in that pupil's individualized education program developed pursuant to Article 3 (commencing with Section 56340) of Chapter 4 of Part 30, whichever is less, shall constitute a day of attendance.
SEC. 20. Section 48661 of the Education Code is amended to read:
48661. (a) A community day school serving kindergarten or any of grades 1 to 6, inclusive, shall not be situated on the same site as an elementary, middle, junior high, comprehensive senior high, opportunity, or continuation school, except when the governing board of a school district maintaining kindergarten or any of grades 1 to 6, inclusive, certifies by a two-thirds vote of its membership that no satisfactory alternative facilities are available for a community day school in those grades.
(b) A community day school serving any of grades 7 to 12, inclusive, shall not be situated on the same site as an elementary, middle, junior high, comprehensive senior high, opportunity, or continuation school, except when the governing board of a school district with 2,500 or fewer units of average daily attendance reported for the most recent second principal apportionment and maintaining any of grades 7 to 12, inclusive, certifies by a two-thirds vote of its membership that no satisfactory alternative facilities are available for a community day school in those grades.
(c) A community day school serving grades 7 to 9, inclusive, shall not be situated on the same site as an elementary, middle, junior high, comprehensive senior high, opportunity, or continuation school, except when the governing board of a school district with 2,500 or fewer units of average daily attendance reported for the most recent second principal apportionment and maintaining any of grades 7 to 9, inclusive, certifies by a two-thirds vote of its membership that no satisfactory alternative facilities are available for a community day school in those grades.
(d) A certification made pursuant to this section is valid for not more than one school year and may be renewed by a subsequent two-thirds vote of the governing board.
SEC. 21. Section 49500 of the Education Code is amended to read:
49500. The governing board of any school district may provide, without charge or at a reduced price, breakfasts for pupils within the

district who are needy. The governing board may provide, without charge or at a reduced price, lunches for pupils who are needy. The governing board of any school district may provide, without charge, lunches for any or all other pupils whether they are needy or not, provided that the governing board has so provided such lunches without charge to all pupils of the district during the 1962–63 school year. The governing board of any school district may provide, without charge or at a reduced price, other nutrition periods during the schoolday during which foods or beverages, or both, are served to pupils.

For purposes of this article a pupil who is "needy" is one who meets the definition in Section 49552.

As used in this article "school meals" includes breakfasts, lunches, or the serving of foods or beverages, or both, during other nutrition periods, or any combination thereof.

SEC. 22. Section 49513 of the Education Code is amended to read:

49513. To the extent that school districts have an operational program of school meals for pupils, the program authorized by this article shall be integrated with such existing service.

In order to extend the program to those pupils attending schools which do not operate a school lunch program and are unable or unwilling to provide meals required by this article, contracts shall be entered into with nonprofit organizations, other public agencies or proprietary agencies. In making such contracts, special consideration shall be given to utilizing the Business Enterprises Program for the Blind established under Article 5 (commencing with Section 19625) of Chapter 6 of Part 2 of Division 10 of the Welfare and Institutions Code. Such contracts shall be negotiated, approved and supervised by the Department of Education and terminated as soon as feasible upon certification by the Department of Education that the local school district or school is able and willing to establish a food service program.

SEC. 23. Section 49514 of the Education Code is repealed.

SEC. 24. Section 49516 of the Education Code is amended to read:

49516. In order to encourage the development of a sense of fiscal responsibility among the pupils participating in the school meal program, a nominal cash payment for school meals provided under this article may be required of all pupils except those eligible for free meals. Such payments shall be related to the income of the pupil's family.

Funds received from payments by participating pupils shall be used to expand the programs under this article.

SEC. 25. Section 49531 of the Education Code is amended to read:

49531. Any child nutrition entity may apply to the State Department of Education for all available federal and state funds so that a nutritionally adequate breakfast or lunch, or both, may be provided to pupils each schoolday at each school in the districts or maintained by the county superintendents of schools, or at private

schools and parochial schools and to children receiving child development services. The State Board of Education shall adopt rules and regulations for the operation of lunch and breakfast programs in school districts. A child nutrition entity which receives state funds pursuant to this article, shall provide breakfasts and lunches in accordance with state and federal guidelines.

A nutritionally adequate breakfast, for the purposes of this article, is one that qualifies for reimbursement under the federal child nutrition program regulations, meets a minimum of one-fourth of the current Recommended Dietary Allowance established by the National Research Council, and incorporates the current United States Dietary Guidelines for Americans. A nutritionally adequate lunch is one that qualifies for reimbursement under the federal child nutrition program regulations, meets one-third of the Recommended Dietary Allowance established by the National Research Council and incorporates the current United States Dietary Guidelines for Americans.

State reimbursement for meals provided pursuant to this article shall be limited to meals provided to pupils who are within the relevant definitions and criteria in federal statutes and regulations which prescribe eligibility for free and reduced price meals.

SEC. 26. Section 49532 of the Education Code is repealed.

SEC. 27. Section 49536 of the Education Code is amended to read:

49536. The State Department of Education shall, prior to July 1 of each year, prescribe an adjustment in the state meal contribution rates established pursuant to this section for the forthcoming fiscal year. The adjustments shall reflect the changes in the cost of operating a school breakfast and lunch program and shall be made commencing on July 1 of each year. The adjustment shall be the average of the separate indices of the "Food Away From Home Index" for Los Angeles and San Francisco as prepared by the United States Bureau of Labor Statistics.

In giving effect to the cost-of-living provisions of this section, the Department of Education shall use the same month for computation of the percentage change in the cost of living after July 1, 1975. The same month shall be used annually thereafter. The product of any percentage increase or decrease in the average index and the per meal reimbursement disbursement rate shall be adjusted by the amount of any cost-of-living change currently in effect pursuant to the provisions of this section.

Commencing with the 1990–91 fiscal year, the cost-of-living adjustment shall be equal to the percentage change determined pursuant to subdivision (b) of Section 42238.1.

SEC. 28. Section 49550.3 of the Education Code is amended to read:

49550.3. (a) The Legislature recognizes that the 1991–92 fiscal year budget reductions may result in more children coming to school hungry. Because a hungry child cannot learn, the Legislature

intends, as a state nutrition and health policy, that the School Breakfast Program be made available in all schools where it is needed to provide adequate nutrition for children in attendance.

(b) The State Department of Education shall, in cooperation with school districts and county superintendents of schools, provide information and limited financial assistance to encourage program startup and expansion into all qualified schools, as follows:

(1) Provide information to school districts and county superintendents of schools concerning the benefits and availability of the School Breakfast Program.

(2) Each year, provide additional information and financial assistance to schools in the state, selected on the following criteria:

(A) Thirty percent or more of the school enrollment consists of children who have applied and qualify for free and reduced-price meals.

(B) The school does not currently participate in the School Breakfast Program.

(C) The school has not been awarded federal startup funds to initiate a school breakfast program.

(c) The department shall award grants of up to ten thousand dollars ($10,000) per schoolsite on a competitive basis to school districts, county superintendents of schools, or entities approved by the State Department of Education, limited to a total of five hundred thousand dollars ($500,000) in the 1991–92 fiscal year, and limited to an amount subject to budget appropriations each fiscal year thereafter, for nonrecurring expenses incurred in initiating a school breakfast program under this section.

(d) Grants awarded under this section shall be used for nonrecurring costs of initiating a school breakfast program, including the acquisition of equipment, training of staff in new capacities, outreach efforts to publicize new school breakfast programs, and minor alterations to accommodate new equipment. Funds may not be used for salaries and benefits of staff, food, computers, capital outlay, or expansion of existing school breakfast programs.

(e) In making grant awards under this section in any fiscal year, the department shall give a preference to school districts and county superintendents of schools that do all of the following:

(1) Submit to the department a plan to start school breakfast programs in the district or the county, including a description of the following:

(A) The manner in which the district or county will provide technical assistance and funding to schoolsites to expand those programs.

(B) Detailed information on the nonrecurring expenses needed to initiate a program.

(C) Public or private resources that have been assembled to carry out expansion of these programs during that year.

(2) Agree to operate the breakfast program for a period of not less than three years.

(3) Assure that the expenditure of funds from state and local resources for the maintenance of the breakfast program shall not be diminished as a result of grant awards received under this section.

SEC. 29. Section 49553 of the Education Code is amended to read:

49553. (a) A nutritionally adequate meal, for the purposes of this article, is a breakfast or lunch as defined in Section 49531 that qualifies for reimbursement under the federal child nutrition program regulations.

(b) For the purposes of special school nutrition supplements provided to pregnant or lactating pupils under Section 49559, protein and grain meal components for any given day shall, together, offer a total of five ounces of protein, one ounce of which shall be cheese or eight ounces of milk and three servings from the grain group, preferably whole and nutritious grains. This may be accomplished by adding one ounce of protein and one serving from the grain group at breakfast or serving these as a snack, and by adding one or two ounces of protein, one ounce of which must be cheese or eight ounces of milk, to lunch, or by offering a morning supplement consisting of two or three ounces of protein, one ounce of which must be cheese, or eight ounces of milk, and one or two servings from the grain group. Meal components where only breakfast is served shall be increased to a total including one ounce of protein and two servings from the grain group, preferably whole and nutritious grains. Where both breakfast and lunch are provided, they shall, together, provide a total of five ounces of protein foods, one ounce of which shall be cheese, three servings from the grain group, preferably whole and nutritious grains, one and one-fourth cups from the fruit and vegetable group, and one pint from the milk group.

The following options shall be allowed:

(1) One cup of fruit in place of one serving of the grain group, once a week.

(2) One cup of unsweetened yogurt, made with pasteurized milk, in place of eight ounces of milk or one ounce of cheese, up to two times a week.

SEC. 30. Section 49559 of the Education Code is amended to read:

49559. (a) Any school food authority that participates in a federal child nutrition program and is reimbursed pursuant to subdivision (b) of Section 41350 for meals served pursuant to this article may be reimbursed at the current rate as determined by the State Department of Education, pursuant to subdivision (d). If the sum appropriated for purposes of this section is not sufficient to make the allowances specified by this section, the allowances shall be reduced proportionately. This rate shall be in addition to the reimbursement currently provided under Section 49536. The additional funds shall be used exclusively to supplement the meals served pursuant to Section 49550.

(b) Pregnant or lactating students shall qualify for nutrition program supplements under this section upon the submission of medical verification of pregnancy or lactating status. Those students shall qualify for nutrition program supplements under this section through the end of the school year during which they conclude their pregnancy or discontinue lactating. All statements shall be strictly confidential, in accordance with Section 49558.

(c) The State Department of Education shall make allowances to school food authorities from the General Fund on at least a quarterly basis. Program providers shall submit claims to the department within 10 calendar days of the end of each quarter. Within 45 calendar days of submission of a valid claim, the State Department of Education shall tender reimbursement.

(d) The State Department of Education shall, prior to July 1 of each year, prescribe an adjustment in the state meal contribution rates for the next fiscal year. The adjustments shall reflect the changes in the cost of operating a school breakfast, snack, morning supplement, and lunch program and shall be effective July 1 of each year. The adjustment shall be based on the average of the separate indices of the "Food Away From Home Index" for Los Angeles and San Francisco, as prepared by the United States Bureau of Labor Statistics.

In giving effect to the cost-of-living provisions of this subdivision, the State Department of Education shall prescribe a calendar month for the computation of the percentage change in the cost of living after July 1, 1985. The same month shall be used annually thereafter. The product of any percentage increase or decrease in the average index and the per meal reimbursement disbursement rate shall be adjusted by the amount of any cost-of-living change currently in effect pursuant to this subdivision. For the purposes of this subdivision, state reimbursement shall be made for the breakfast or lunch which qualifies for reimbursement pursuant to the nutritional requirements of Section 49553.

SEC. 31. Section 51230 of the Education Code is amended to read:

51230. As a part of the course in American government and civics required for high school graduation pursuant to subparagraph (D) of paragraph (1) of subdivision (a) of Section 51225.3, all pupils shall read and be taught all of the following:

(a) The Declaration of Independence.

(b) The United States Constitution, including the Bill of Rights.

(c) Substantive selections from the Federalist Papers.

(d) The Emancipation Proclamation.

(e) The Gettysburg Address.

(f) George Washington's Farewell Address.

SEC. 32. Section 51747.5 of the Education Code is amended to read:

51747.5. (a) The independent study by each pupil or student shall be coordinated, evaluated, and, notwithstanding subdivision (a)

of Section 46300, shall be under the general supervision of an employee of the school district or county office of education who possesses a valid certification document pursuant to Section 44865 or an emergency credential pursuant to Section 44300, registered as required by law.

(b) School districts and county offices of education may claim apportionment credit for independent study only to the extent of the time value of pupil or student work products, as personally judged in each instance by a certificated teacher.

SEC. 33. Section 94153 of the Education Code is amended to read:

94153. The total amount of bonds authorized to be outstanding at any one time under this chapter with respect to dormitory or educational facility projects shall be two billion six hundred million dollars ($2,600,000,000). The total amount of bonds authorized to be outstanding at any one time under this chapter with respect to student loan projects shall be three hundred million dollars ($300,000,000). Bonds that are refunded pursuant to Section 94150 or for which the payment of funds otherwise have been placed in escrow prior to maturity or redemption shall no longer be treated as outstanding, for the purpose of this section.

SEC. 34. Section 94774 of the Education Code, as added by Chapter 78 of the Statutes of 1997, is amended to read:

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.

(g) The bureau may design and administer a process for the approval of courses offered to veterans, and for the approval and supervision of the institutions offering courses to veterans, pursuant to any applicable act of Congress and the regulations adopted pursuant to such an act.

(1) For the purposes of this subdivision, the bureau:

(A) Is designated as the state approving agency for veterans' institutions and veterans' courses, and is authorized to be reimbursed for its services in this regard.

(B) Has the same powers conferred on the Director of Education by Article 6 (commencing with Section 12090) of Chapter 1 of Part 8, to enter into agreements and cooperate with the United States Department of Veterans Affairs, or any other federal agency, regarding approval of courses, and the approval and supervision of institutions that offer courses to veterans.

(C) May adopt regulations that are necessary and appropriate to exercise its authority under this subdivision.

SEC. 35. Section 94778 of the Education Code, as added by Chapter 78 of the Statutes of 1997, is amended to read:

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.

(c) The bureau may adopt regulations that provide for the approval of courses offered to veterans, and for the approval and supervision of institutions that offer courses to veterans, pursuant to federal law.

SEC. 36. Section 53646 of the Government Code is amended to read:

53646. (a) (1) In the case of county government, the treasurer shall annually render to the board of supervisors and any oversight committee a statement of investment policy, which the board shall review and approve at a public meeting. Any change in the policy shall also be reviewed and approved by the board at a public meeting.

(2) In the case of any other local agency, the treasurer or chief fiscal officer of the local agency shall annually render to the legislative body of that local agency and any oversight committee of that local agency a statement of investment policy, which the legislative body of the local agency shall consider at a public meeting. Any change in the policy shall also be considered by the legislative body of the local agency at a public meeting.

(b) (1) The treasurer or chief fiscal officer shall render a quarterly report to the chief executive officer, the internal auditor, and the legislative body of the local agency. The quarterly report shall be so submitted within 30 days following the end of the quarter covered by the report. Except as provided in subdivisions (e) and (f), this report shall include the type of investment, issuer, date of maturity par and dollar amount invested on all securities, investments and moneys held by the local agency, and shall additionally include a description of any of the local agency's funds, investments, or programs, that are under the management of contracted parties, including lending programs. With respect to all securities held by the local agency, and under management of any outside party that is not also a local agency or the State of California Local Agency Investment Fund, the report shall also include a current market value as of the date of the report, and shall include the source of this same valuation.

(2) The quarterly report shall state compliance of the portfolio to the statement of investment policy, or manner in which the portfolio is not in compliance.

(3) The quarterly report shall include a statement denoting the ability of the local agency to meet its pool's expenditure requirements for the next six months, or provide an explanation as to why sufficient money shall, or may, not be available.

(4) In the quarterly report, a subsidiary ledger of investments may be used in accordance with accepted accounting practices.

(c) Pursuant to subdivision (b), the treasurer or chief fiscal officer shall report whatever additional information or data may be required by the legislative body of the local agency.

(d) The legislative body of a local agency may elect to require the report specified in subdivision (b) to be made on a monthly basis instead of quarterly.

(e) For local agency investments that have been placed in the Local Agency Investment Fund, created by Section 16429.1, in Federal Deposit Insurance Corporation-insured accounts in a bank

or savings and loan association, in a county investment pool, or any combination of these, the treasurer or chief fiscal officer may supply to the governing body, chief executive officer, and the auditor of the local agency the most recent statement or statements received by the local agency from these institutions in lieu of the information required by paragraph (1) of subdivision (b) regarding investments in these institutions.

(f) The treasurer or chief fiscal officer shall not be required to render a quarterly report, as required by subdivision (b), to a legislative body or any oversight committee of a school district or county office of education for securities, investments, or moneys held by the school district or county office of education in individual accounts that are less than twenty-five thousand dollars ($25,000).

SEC. 37. Notwithstanding any other provision of law, any waiver granted by the State Allocation Board to a school district pursuant to Section 39141.10 of the Education Code or Section 39304.5 of the Education Code that is in effect on or before September 29, 1997, is hereby extended until September 30, 2000.

SEC. 38. (a) Notwithstanding Section 41972 of the Education Code or any other provision of law, the unencumbered balance of the funds appropriated by Item 6110-103-001 of Section 2.00 of the Budget Act of 1995, as set forth in Chapter 303 of the Statutes of 1995, is hereby reappropriated to the Superintendent of Public Instruction, in augmentation of the following:

(1) Schedule (d) of Item 6110-101-001 of Section 2.00 of the Budget Act of 1989, as set forth in Chapter 93 of the Statutes of 1989, for allocation for the 1989–90 fiscal year to fund apprenticeship education programs pursuant to Article 8 (commencing with Section 8150) of Chapter 1 of Part 6 of the Education Code.

(2) Schedule (d) of Item 6110-101-001 of Section 2.00 of the Budget Act of 1990, as set forth in Chapter 467 of the Statutes of 1990, for allocation for the 1990–91 fiscal year to fund apprenticeship education programs pursuant to Article 8 (commencing with Section 8150) of Chapter 1 of Part 6 of the Education Code.

(b) Funds appropriated by this section shall be allocated pursuant to paragraph (1) of subdivision (a) to reimburse school districts for disbursements made to apprenticeship programs which have not been reimbursed by the Superintendent of Public Instruction. The funds shall first be allocated pursuant to paragraph (1) of subdivision (a). Any funds remaining after allocation pursuant to paragraph (1) of subdivision (a) shall be allocated pursuant to paragraph (2) of subdivision (a).

SEC. 39. Section 1 of Chapter 58 of the Statutes of 1997 is amended to read:

Sec. 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) Notwithstanding Section 47612 of the Education Code, the attendance of pupils in a charter school operating pursuant to subdivision (a) shall be funded at the same rates for the same categories of students as community schools in the same county that are operated pursuant to Section 1980 of the Education Code, provided that the charter school is operated for at least the same amount of time each schoolday as the minimum required of community schools operated pursuant to Section 1980 of the Education Code.

(c) A charter school operating pursuant to subdivision (a) shall have its average daily attendance determined and reported as provided in subdivision (b) of Section 41601 of the Education Code, and that school's apportionments of state funding shall be calculated in the same manner as apportionments for community schools operated pursuant to Section 1980 of the Education Code.

(d) 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. 40. Section 3 of Chapter 340 of the Statutes of 1997 is amended to read:

Sec. 3. The sum of three hundred fifty thousand dollars ($350,000) is hereby transferred from Item 6110-136-0890 of Section 2.00 of the Budget Act of 1997 to Item 6110-001-0890 of Section 2.00 of the Budget Act of 1997, for expenditure by the State Department of Education for the purpose of administering the High-Risk Youth Education and Public Safety Program contained in Section 1. Of this amount, no more than two hundred thousand dollars ($200,000) shall be available for contracting with an independent evaluator to assess the overall success of the program pursuant to Section 47773 of the Education Code.

SEC. 41. The sum of nine hundred thousand dollars ($900,000) is hereby appropriated from the General Fund to the State Department of Education for instructional support in augmentation of, and for the purposes of, Schedule (b) of Item 6110-001-0001 of Section 2.00 of the Budget Act of 1997.

SEC. 42. The sum of two million dollars ($2,000,000) is hereby appropriated from the General Fund to the State Department of Education for support in augmentation of, and for the purposes of, schedule (d) of Item 6110-001-0001 of Section 2.00 of the Budget Act of 1997.

SEC. 43. Notwithstanding proviso 2 of Item 6110-142-0890, the funds made available pursuant to proviso 2 of Item 6110-142-0890 shall also be available to provide inservice training in reading instruction to teachers who teach reading or English language arts in one or more of kindergarten or grades 1 to 8, inclusive, paraprofessionals, and schoolsite administrators, pursuant to Chapter 3.45 (commencing with Section 44755) and Chapter 3.46 (commencing with Section 44758) of Part 25 of the Education Code, as those

chapters are amended or enacted, respectively, by legislation enacted in the first year of the 1997–98 Regular Session. These funds may also be used to fund staff development for teachers who are hired to achieve class size reduction.

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:

In order to efficiently implement the Budget Act of 1997 with respect to education funding, it is necessary that this act take effect immediately.

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## CHAPTER 826

An act to amend Sections 41862 and 41863 of the Education Code, relating to education, and making an appropriation therefor.

[Approved by Governor October 9, 1997. Filed with Secretary of State October 10, 1997.]

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

SECTION 1. Section 41862 of the Education Code is amended to read:

41862. School districts that meet all of the following criteria are eligible to receive an apportionment pursuant to this article:

(a) The number of students who received home-to-school transportation services in the prior fiscal year were equivalent to at least 33 percent of the total number of units of average daily attendance in the prior fiscal year.

(b) The total cost per mile for the prior fiscal year for home-to-school transportation does not exceed the statewide average cost per mile.

(c) In the prior fiscal year, the amount of the school district's approved cost of home-to-school transportation per unit of average daily attendance exceeded one hundred thirty dollars ($130).

SEC. 2. Section 41863 of the Education Code is amended to read:

41863. (a) The Superintendent of Public Instruction shall determine for each school district meeting the standards of Section 41862 the apportionment for that school district's unreimbursed cost of home-to-school transportation in the prior fiscal year as follows:

(1) Add the following amounts:

(A) The home-to-school transportation allowance for the school district received pursuant to Sections 41851 and 41851.11 for the prior fiscal year.

(B) The amount of funding received for the costs of transportation associated with court-ordered or voluntary desegregation programs.

(2) Subtract from the sum computed pursuant to paragraph (1) all supplemental grant funding received in the prior fiscal year by the school district for home-to-school transportation or court-ordered or voluntary desegregation.

(3) Subtract from the school district's prior year's approved costs of home-to-school transportation the amount computed pursuant to paragraph (2).

(b) The Superintendent of Public Instruction shall calculate data for school districts within a joint powers authority as separate entities, but apportionments shall be the same as under existing law, provided that the joint powers authority submits in a timely fashion the data required by the superintendent to make the calculation.

(c) In the event the funds appropriated for the purposes of this article are not sufficient to fully fund the formula established by this section, the amounts apportioned shall be reduced on a proportionate basis.

SEC. 3. (a) Notwithstanding subdivision (a) of Section 41851.11 of the Education Code, for the 1997–98 fiscal year, the Superintendent of Public Instruction shall allocate one-half of any funds that would have been available for the purposes of subdivision (a) of Section 41851.11 of the Education Code for the purposes of Section 41851.11 of the Education Code and one-half of those funds for the purposes of Section 41863 of the Education Code.

(b) Regardless of when this act becomes effective, it is the intent of the Legislature that subdivision (a) be implemented for the entire 1997–98 fiscal year. For the purpose of implementing that subdivision for the entire 1997–98 fiscal year, the Superintendent of Public Instruction and other public officers shall take all necessary steps to effect the required adjustments and shall have authority to adjust allowance computations, apportionments, and disbursements ordered from Section A of the State School Fund and other public funds.

SEC. 4. Notwithstanding any other provision of law, the unallocated balance of the funds appropriated for the purposes of Section 41851.11 of the Education Code in the 1996–97 fiscal year is reappropriated to the Superintendent of Public Instruction for allocation in accordance with the following schedule:

(a) One-half of this unallocated balance for the purposes of Section 41851.11 of the Education Code in the 1997–98 fiscal year.

(b) One-half of this unallocated balance for the purposes of Section 41862 of the Education Code in the 1997–98 fiscal year.

## CHAPTER 827

An act to amend Section 41862 of, to amend and repeal Sections 44757.4 and 44759.5 of, and to add Section 17203.5 to, the Education Code, relating to education.

[Approved by Governor October 9, 1997. Filed with Secretary of State October 10, 1997.]

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

SECTION 1. Section 17203.5 is added to the Education Code, to read:

17203.5. Notwithstanding any other provisions of law, any school district, for the purposes of demonstrating eligibility for funding under this chapter pursuant to Section 17203.

(a) In the 1997–98 fiscal year, identify by grade level all available teaching stations in the schools in the school district that serve kindergarten or any grades 1 to 6, inclusive. For the purposes of this section, "teaching station" shall be determined as specified in Sections 17042.5 and 17042.7.

(b) Notwithstanding paragraphs (1) to (3), inclusive, of subdivision (b) of Section 52122.1, in the 1997–98 fiscal year, for the purposes only of determining eligibility for funding under subdivisions (c) to (i), inclusive, of Section 52122.1, a school district is not required to count teaching stations at a schoolsite leased to outside agencies prior to July 1, 1996.

SEC. 2. Section 41862 of the Education Code is amended to read:

41862. School districts that meet all of the following criteria are eligible to receive an apportionment pursuant to this article:

(a) The number of pupils who received home-to-school transportation services in the prior fiscal year was equivalent to at least 33 percent of the total number of units of average daily attendance in the prior fiscal year.

(b) The total cost per mile for the prior fiscal year for home-to-school transportation does not exceed the statewide average cost per mile, or 115 percent of the statewide average cost per mile if the Superintendent of Public Instruction determines that either weather-related or terrain-related conditions vary substantially from other school districts that the superintendent determines may also be classified as high-impact, high-efficiency school districts.

(c) In the prior fiscal year, the amount of the school district's approved cost of home-to-school transportation per unit of average daily attendance exceeded one hundred thirty dollars ($130).

SEC. 3. Section 44757.4 of the Education Code, as added by Chapter 299 of the Statutes of 1997, is amended to read:

44757.4. (a) The Superintendent of Public Instruction shall award grants to school districts only for the highest quality proposals

that demonstrate a clear understanding of a balanced, comprehensive reading instruction program based on current and confirmed research.

(b) A school district shall propose a project budget to carry out the proposed reading staff development. The minimum grant awarded shall be for no less than one thousand dollars ($1,000), and the maximum grant awarded to a school district shall not exceed twice the product determined by multiplying the result of paragraph (1) by the result of paragraph (2).

(1) The total amount of funding provided in the Budget Act of 1997 for the purposes of this chapter, divided by the number of pupils enrolled statewide in kindergarten and grades 1 to 8, inclusive, in the 1997–98 fiscal year.

(2) The number of pupils enrolled in the school district in kindergarten and grades 1 to 3, inclusive.

(c) For purposes of this section, the certified California Basic Educational Data System (CBEDS) count from the fiscal year prior to the year for which the funds are appropriated will be used to determine enrollment.

(d) This section shall remain in effect only until July 1, 1998, and as of that date is repealed, unless a later enacted statute, that is enacted before July 1, 1998, deletes or extends that date.

SEC. 4. Section 44759.5 of the Education Code, as added by Chapter 299 of the Statutes of 1997, is amended to read:

44759.5. (a) The Superintendent of Public Instruction shall award grants to school districts only for the highest quality proposals that demonstrate a clear understanding of a balanced, comprehensive reading instruction program based on current and confirmed research.

(b) A school district shall propose a project budget to carry out the proposed reading staff development. The minimum grant awarded shall be for no less than one thousand dollars ($1,000), and the maximum grant awarded to a school district shall not exceed twice the product determined by multiplying the result of paragraph (1) by the result of paragraph (2).

(1) The total funding provided in the Budget Act of 1997 for the purposes of this chapter, divided by the number of pupils enrolled statewide in kindergarten and grades 1 to 8, inclusive, in the 1997–98 fiscal year.

(2) The number of pupils enrolled in the school district in grades 4 to 8, inclusive.

(c) For purposes of this section, the certified California Basic Educational Data System (CBEDS) count from the fiscal year prior to the year for which the funds are appropriated will be used to determine enrollment.

(d) This section shall remain in effect only until July 1, 1998, and as of that date is repealed, unless a later enacted statute, that is enacted before July 1, 1998, deletes or extends that date.

SEC. 5. For the 1997–98 fiscal year only, notwithstanding any other provision of law, the per-pupil amounts to be determined pursuant to paragraph (1) of subdivision (b) of Section 44757.4 and paragraph (1) of subdivision (b) of Section 44759.5 shall be the amount provided pursuant to Provision 2 of Item 6110-142-0890 of Section 2.00 of the Budget Act of 1997 (Ch. 282, Stats. 1997) for in-service training in reading instruction divided by the statewide enrollment in kindergarten and grades 1 to 8, inclusive, in the 1996–97 fiscal year.

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## CHAPTER 828

An act to amend Sections 33050, 60603, 60604, 60605, 60606, 60607, 60613, 60616, and 60630 of, and to repeal and add Article 4 (commencing with Section 60640) of Chapter 5 of Part 33 of, the Education Code, relating to education, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 9, 1997. Filed with Secretary of State October 10, 1997.]

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

SECTION 1. Section 33050 of the Education Code, as amended by Chapter 299 of the Statutes of 1997, is amended to read:

33050. (a) The governing board of a school district or a county board of education may, on a districtwide or countywide basis or on behalf of one or more of its schools or programs, after a public hearing on the matter, request the State Board of Education to waive all or part of any section of this code or any regulation adopted by the State Board of Education that implements a provision of this code that may be waived, except:

(1) Article 1 (commencing with Section 15700) and Article 2 (commencing with Section 15780) of Chapter 6 of Part 10.

(2) Chapter 8 (commencing with Section 16000) and Chapter 9 (commencing with Section 16400) of Part 10.

(3) Chapter 22 (commencing with Section 17700), Chapter 23 (commencing with Section 17760), and Chapter 25 (commencing with Section 17785) of Part 10.

(4) Part 13 (commencing with Section 22000).

(5) Section 35735.1.

(6) Paragraph (8) of subdivision (a) of Section 37220.

(7) The following provisions of Part 23:

(A) Chapter 1 (commencing with Section 39000).

(B) Article 1 (commencing with Section 39100) to Article 6 (commencing with Section 39210), inclusive, of Chapter 2.

(C) Section 39248; Sections 39313 to 39325, inclusive; Sections 39360.5 and 39363 and subdivision (a) of Section 39363.5; and Sections 39618 to 39621, inclusive.

(8) Sections 52163, 52165, 52166, and 52178.

(9) Article 3 (commencing with Section 52850) of Chapter 12 of Part 28.

(10) The identification and assessment criteria relating to any categorical aid program, including Sections 52164.1 and 52164.6.

(11) Sections 41000 to 41360, inclusive; Sections 41420 to 41423, inclusive; Sections 41600 to 41866, inclusive; Sections 41920 to 42911, inclusive; Article 3 (commencing with Section 44930) of Chapter 4 of Part 25; Part 26 (commencing with Section 46000) and Chapter 6 (commencing with Section 48900) and Chapter 6.5 (commencing with Section 49060) of Part 27; or regulations in Title 5 of the California Code of Regulations adopted pursuant to Article 3 (commencing with Section 44930) of Chapter 4 of Part 25.

(12) Section 51513.

(13) Chapter 6.10 (commencing with Section 52120) of Part 28, relating to the Class Size Reduction Program.

(14) Section 56364.1, except that this restriction shall not prohibit the State Board of Education from approving any waiver of Section 56364 relating to full inclusion.

(15) Article 4 (commencing with Section 60640) of Chapter 5 of Part 33, relating to the STAR Program, and any other provisions of Chapter 5 (commencing with Section 60600) of Part 33 that establish requirements for the STAR Program.

(b) Any waiver of provisions related to the programs identified in Section 52851 shall be granted only pursuant to Article 3 (commencing with Section 52850) of Chapter 12 of Part 28.

(c) The waiver of an advisory committee required by law shall be granted only pursuant to Article 4 (commencing with Section 52870) of Chapter 12 of Part 28.

(d) Any request for a waiver submitted by the governing board of a school district or a county board of education pursuant to subdivision (a) shall include a written statement as to (1) whether the exclusive representative of employees, if any, as provided in Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, participated in the development of the waiver and (2) the exclusive representative's position regarding the waiver.

(e) Any request for a waiver submitted pursuant to subdivision (a) relating to a regional occupational center or program established pursuant to Article 1 (commencing with Section 52300) of Chapter 9 of Part 28, that is operated by a joint powers entity established pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code, shall be submitted as a joint waiver request for each participating school district and shall meet both of the following conditions:

(1) Each joint waiver request shall comply with all of the requirements of this article.

(2) The submission of a joint waiver request shall be approved by a unanimous vote of the governing board of the joint powers agency.

(f) The governing board of any school district requesting a waiver under this section of any provision of Article 5 (commencing with Section 39390) of Chapter 3 of Part 23 shall provide written notice of any public hearing it conducted pursuant to subdivision (a), at least 30 days prior to the hearing, to each public agency identified under Section 39394.

SEC. 2. Section 60603 of the Education Code is amended to read:

60603. As used in this chapter:

(a) "Achievement test" means any standardized test that measures the level of performance that a pupil has achieved in the core curriculum areas.

(b) "Assessment of applied academic skills" means a form of assessment that requires pupils to demonstrate their knowledge of, and ability to apply, academic knowledge and skills in order to solve problems and communicate. It may include, but is not limited to, writing an essay response to a question, conducting an experiment, or constructing a diagram or model. An assessment of applied academic skills may not include assessments of personal behavioral standards or skills, including, but not limited to, honesty, sociability, ethics, or self-esteem.

(c) "Basic academic skills" means those skills in the subject areas of reading, spelling, written expression, and mathematics that provide the necessary foundation for mastery of more complex intellectual abilities, including the synthesis and application of knowledge.

(d) "Content standards" means the specific academic knowledge, skills, and abilities that all public schools in this state are expected to teach and all pupils expected to learn in each of the core curriculum areas, at each grade level tested.

(e) "Core curriculum areas" means the areas of reading, writing, mathematics, history-social science, and science.

(f) "Direct writing assessment" means an assessment of applied academic skills that requires pupils to use written expression to demonstrate writing skills, including writing mechanics, grammar, punctuation, and spelling.

(g) "End of course exam" means a comprehensive and challenging assessment of pupil achievement in a particular subject area or discipline such as the Golden State Exams.

(h) "Performance standards" are standards that define various levels of competence at each grade level in each of the curriculum areas for which content standards are established. Performance standards gauge the degree to which a student has met the content standards and the degree to which a school or school district has met the content standards.

(i) “Publisher” means a commercial publisher or any other public or private entity, other than the State Department of Education, which is able to provide tests or test items that meet the requirements of this chapter.

(j) “Statewide pupil assessment program” means the systematic achievement testing of pupils in grades 2 to 11, inclusive, pursuant to the standardized testing and reporting program under Article 4 (commencing with Section 60640) and the assessment of basic academic skills and applied academic skills, administered to pupils in grade levels specified in subdivision (c) of Section 60605, required by this chapter in all schools within each school district by means of tests designated by the State Board of Education.

SEC. 3. Section 60604 of the Education Code is amended to read:

60604. (a) The Superintendent of Public Instruction shall design and implement, consistent with the timetable and plan required pursuant to subdivision (b), a statewide pupil assessment program consistent with the testing requirements of this article in accordance with the objectives set forth in Section 60602. That program shall include all of the following:

(1) A plan for producing valid, reliable, and comparable individual pupil scores in grades 2 to 11, inclusive, and a comprehensive analysis of these scores based on the results of the achievement test designated by the State Board of Education that assesses a broad range of basic academic skills pursuant to the Standardized Testing and Reporting (STAR) Program established by Article 4 (commencing with Section 60640) and the assessment established pursuant to subdivision (c) of Section 60605.

(2) A method of working with publishers to ensure valid, reliable, and comparable individual, grade-level, school-level, district-level, county-level, and statewide scores in grades 2 to 11, inclusive, that is based on the achievement test designated pursuant to subdivision (b) of Section 60605 and that, in the grade levels and subject areas specified in subdivision (c) of Section 60605, ensures valid, reliable and comparable school-level, district-level, county-level, and statewide scores in the assessments administered pursuant to subdivision (c) of Section 60605.

(3) Statewide academically rigorous content and performance standards that reflect the knowledge and skills that pupils will need in order to succeed in the information-based, global economy of the 21st century. These skills shall not include personal behavioral standards or skills, including, but not limited to, honesty, sociability, ethics, or self-esteem.

(4) A statewide system that provides the results of testing in a manner that reflects the degree to which pupils are achieving the academically rigorous content and performance standards adopted by the State Board of Education.

(5) The alignment of assessment with the statewide academically rigorous content and performance standards adopted by the State Board of Education.

(6) The active, ongoing involvement of parents, classroom teachers, administrators, other educators, governing board members of school districts, and the public in all phases of the design and implementation of the statewide pupil assessment program and the development of assessment instruments pursuant to the requirements of subdivision (c) of Section 60605.

(7) The development of a contract with a publisher or publishers, after the approval of statewide academically rigorous content and performance standards by the State Board of Education, for the development of assessments of applied academic skills designed to test pupils' knowledge of academic skills and abilities to apply that knowledge and those skills in order to solve problems and communicate, limited to the grade levels and subject areas specified in subdivision (c) of Section 60605.

(b) The superintendent shall develop and annually update for the Legislature a five-year cost projection, implementation plan, and timetable for implementing the program described in subdivision (a). The annual update shall be submitted on or before March 1 of each year to the chairperson of the fiscal subcommittee considering budget appropriations in each house. The update shall explain any significant variations from the five-year cost projection for the current year budget and the proposed budget.

(c) The Superintendent of Public Instruction shall provide each school district with guidelines for professional development that are designed to assist classroom teachers to use the results of the assessments administered pursuant to this chapter to modify instruction for the purpose of improving pupil learning. These guidelines shall be developed in consultation with classroom teachers and approved by the State Board of Education before dissemination.

(d) The Superintendent of Public Instruction shall make available prototype and sample versions of the statewide pupil assessment test pursuant to subdivision (c) of Section 60605 to each school district and to the public prior to administration of the tests. The superintendent and the State Board of Education shall consider comments and recommendations from school districts and the public in the development, adoption, and approval of subsequent assessment instruments.

(e) The results of the achievement test administered pursuant to Article 4 (commencing with Section 60640) shall be returned to the school district in the same academic year in which the test was administered and no later than June 30 of the calendar year in which the test was administered.

SEC. 4. Section 60605 of the Education Code is amended to read:

60605. (a) (1) No later than January 1, 1998, the State Board of Education shall adopt statewide academically rigorous content and

performance standards, pursuant to the recommendations of the Commission for the Establishment of Academic Content and Performance Standards, in the core curriculum areas of reading, writing, and mathematics to serve as the basis for assessing the academic achievement of individual pupils and of schools, school districts, and the California education system. No later than November 1, 1998, the State Board of Education shall adopt such standards in the core curriculum areas of history/social science and science.

(2) The board may modify any proposed content standards or performance standards prior to adoption and may adopt content and performance standards in individual core curriculum areas as those standards are submitted to the board by the commission. The performance standards shall be established against specific grade level benchmarks of academic achievement for each subject area tested and shall be based on the knowledge and skills that pupils will need in order to succeed in the information-based, global economy of the 21st century. These skills shall not include personal behavioral standards or skills, including, but not limited to, honesty, sociability, ethics, or self-esteem. The standards adopted pursuant to this section shall be for the purpose of guiding state decisions regarding the development, adoption, and approval of assessment instruments pursuant to this chapter and shall not be construed to mandate any actions or activities by school districts.

(3) Prior to the adoption of academic content and performance standards, the board shall hold regional hearings for the purpose of giving parents and other members of the public the opportunity to comment on the proposed standards.

(b) (1) The State Board of Education shall require the State Department of Education to notify publishers of the opportunity to submit, for consideration by the State Board of Education pursuant to Section 60642, tests of achievement that include all of the basic academic skills identified in subdivision (c) of Section 60603 in grades 2 to 8, inclusive, and the core curriculum areas identified in subdivision (e) of Section 60603 in grades 9 to 11, inclusive.

(2) On or before October 31, 1997, the Superintendent of Public Instruction shall recommend to the State Board of Education which achievement test to adopt pursuant to subdivision (b) of Section 60642.

(c) (1) The State Board of Education shall adopt an assessment instrument that meets the objectives of Section 60602 and that yields valid, reliable estimates of school performance, school district performance, and statewide performance of pupils that, in grades 4, 5, 8, and 10, assess basic academic skills and incorporate the use of direct writing assessment and other assessments of applied academic skills.

(2) The State Board of Education shall annually require that each school district administer the statewide assessment pursuant to this

subdivision to all pupils in grades 4, 5, 8, and 10. The core curriculum areas shall be addressed by that assessment. Notwithstanding any other provision of law, the assessment provided for under this subdivision shall address, in grade 4, only reading, written expression, and mathematics, and, in grade 5, only history/social science and science. Pupils in a given school shall be administered a portion of all subjects of the assessment that will be representative of all the assessment objectives, goals, and categories of items on the entire assessment in a manner that will produce results that are valid and reliable at the school and school district level. The State Department of Education may provide assistance to school districts in the implementation of the assessment established pursuant to this subdivision.

(3) Nothing in this subdivision shall be construed to prevent the State Board of Education from developing or adopting an assessment instrument that also contains assessments of basic academic skills.

(d) The State Board of Education shall adopt assessments pursuant to subdivision (c) that are aligned with the statewide content and performance standards adopted pursuant to subdivision (a). The State Board of Education shall not adopt an assessment pursuant to subdivision (c) for any core curriculum area until the statewide content and performance standards for that core curriculum area have been adopted by the board pursuant to subdivision (a). The State Board of Education shall not award contracts pursuant to subdivision (h) for any core curriculum area until after adoption of statewide content and performance standards for that core curriculum area.

(e) After the adoption of the statewide content and performance standards, the State Board of Education shall review the achievement test designated pursuant to Section 60642 for conformance with these statewide standards.

(f) After the adoption of the statewide content and performance standards, the board shall review the existing curriculum frameworks for conformity with the new statewide standards and shall modify the curriculum frameworks where appropriate to bring them into alignment with the standards.

(g) The State Board of Education shall adopt regulations for the conduct and administration of the testing and assessment program.

(h) The State Board of Education shall adopt a regulation for minimum security procedures that test and assessment publishers and school districts must follow to ensure the security and integrity of test and assessment questions and materials.

(i) Following consideration of recommendations of the Superintendent of Public Instruction, the State Board of Education shall award contracts to develop instruments to be used for the purposes of subdivision (c), according to competitive bidding procedures.

(1) As part of this process, the board may convene an advisory panel composed of nationally recognized experts in pupil assessment. Two members of the panel shall be selected from a list of at least 10 nominees of the Superintendent of Public Instruction. This panel, if convened, shall assist the board in the preparation of the request for proposals to develop instruments for use as assessments of applied academic skills and in the review and rating of proposals that are submitted. The panel shall also assist the board in determining methods of ensuring that the achievement test designated pursuant to Section 60642 meets the requirements of Section 60644.

(2) Any contractor to whom a contract is awarded pursuant to this subdivision shall assure that parents, classroom teachers, administrators, school district governing board members, and the general public are actively involved in the development of any assessment instruments.

(j) (1) Not less than 60 days before adoption of the statewide pupil assessment pursuant to subdivision (c), the State Board of Education shall make the proposed assessment available for inspection by the public. The board shall adopt any proposed amendments or modifications to the assessment before this public inspection period so that the materials available for inspection are the same materials that the board shall consider for final adoption. This provision applies to subsequent amendments or modifications of the examination in addition to the initial adoption. The proposed assessment shall be available for inspection by the public for a reasonable period of time.

(2) The assessment adopted pursuant to subdivision (c) shall be available for inspection at each county superintendent of schools' office and within each school district at a centrally located site selected by the governing board of each school district. The governing board may also make the assessment available for public inspection at other locations within the school district. No assessment may be copied or taken from the inspection site.

SEC. 5. Section 60606 of the Education Code, as amended by Chapter 44 of the Statutes of 1997, is amended to read:

60606. (a) After designating a test of academic achievement for use in grades 2 to 11, inclusive, pursuant to Section 60642, or adopting an assessment of applied academic skills for use in grades 4, 5, 8, and 10 pursuant to Section 60605, the State Board of Education shall submit each of those two instruments when designated or adopted 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 two instruments specified in subdivision (a) in order to ensure that the content of the instruments 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 test or assessment, as the case may be, comply with the requirements of Section 60614.

(e) The panel shall report its findings and recommendations to the State Board of Education within 10 days of its receipt of each instrument. If the panel fails to report within the required 10 days, the test or assessment shall be deemed acceptable to the panel.

SEC. 6. Section 60607 of the Education Code is amended to read:

60607. (a) Each pupil shall have an individual record of accomplishment by the end of grade 12 that includes the results of the achievement test required and administered annually as part of the standardized testing and reporting program established pursuant to Article 4 (commencing with Section 60640), results of end-of-course exams he or she has taken, and whatever vocational education certification exams he or she chose to take.

(b) It is the intent of the Legislature that school districts and schools use the results of the academic achievement tests administered annually as part of the statewide pupil assessment program to provide support to pupils and parents or guardians in order to assist pupils in strengthening their development as learners, and thereby to improve their academic achievement and performance in subsequent assessments.

(c) Any pupil, or his or her parent or guardian, may request and receive individual pupil assessment results from the assessments of applied academic skills administered pursuant to subdivision (c) of Section 60605 to the extent individual results are available.

(d) Any pupil results or record of achievement shall be private, and may not be released to any person, other than the pupil's parent or guardian and a teacher, counselor, or administrator directly involved with the pupil, without the express written consent of the parent or guardian of the pupil if the pupil is a minor or the pupil if the pupil has reached the age of majority or is emancipated.

SEC. 7. Section 60613 of the Education Code is amended to read:

60613. A school district is an agent of the State Department of Education for the purpose of administering a test or assessment required pursuant to this article. No action may be brought or maintained against any school district or its officers or employees

acting in accordance with the instructions of the Superintendent of Public Instruction or the State Board of Education.

SEC. 8. Section 60616 of the Education Code is amended to read:

60616. Any achievement test designated pursuant to Section 60642 or adopted by the State Board of Education pursuant to this chapter may be reviewed by any Member of the Legislature or any member of the governing board of a school district, if the member agrees in writing prior to the review to maintain the confidentiality of the test.

SEC. 9. Section 60630 of the Education Code is amended to read:

60630. (a) The Superintendent of Public Instruction shall prepare and submit an annual report to the Legislature, the State Board of Education, and each school district in the state containing an analysis, on a school-by-school basis, of the results and test scores of the assessment of applied academic skills adopted pursuant to subdivision (c) of Section 60605 and the achievement test designated pursuant to Section 60642. The report shall include an analysis of the operational factors that appear to have a significant relationship to, or bearing on, the results. The report simultaneously shall be made available in an electronic medium on the Internet. The analysis may include, but need not be limited to, the following factors:

(1) Financial characteristics, including specially funded programs.

(2) Pupil and parent characteristics.

(3) Staff characteristics.

(4) Instructional methodologies and materials.

(b) School districts shall submit to the State Department of Education whatever information the department deems necessary to carry out this section.

SEC. 10. Article 4 (commencing with Section 60640) of Chapter 5 of Part 33 of the Education Code is repealed.

SEC. 11. Article 4 (commencing with Section 60640) is added to Chapter 5 of Part 33 of the Education Code, to read:

Article 4. Standardized Testing and Reporting Program

60640. (a) There is hereby established the Standardized Testing and Reporting Program, to be known as the STAR Program.

(b) Commencing in the 1997–98 fiscal year and each fiscal year thereafter, and from the funds available for that purpose, each school district, charter school, and county office of education shall administer to each of its pupils in grades 2 to 11, inclusive, before May 15, the achievement test designated by the State Board of Education pursuant to Section 60642.

(c) The publisher and the school district shall provide two makeup days for the testing of previously absent pupils no later than May 25.

(d) The governing board of the school district may administer achievement tests in kindergarten, and grade 1 or 12, or both, as it deems appropriate.

(e) Individuals with exceptional needs who have an explicit provision in their individualized education program that exempts them from the testing requirement of subdivision (b) shall be so exempt.

(f) At the school district's option, pupils of limited English proficiency who are enrolled in any of grades 2 to 11, inclusive, may take a second achievement test in their primary language.

(g) In addition to the test required by subdivision (b), pupils of limited English proficiency who are enrolled in any of grades 2 to 11, inclusive, shall be required to take a test in their primary language if such a test is available, if less than 12 months have elapsed after their initial enrollment in any public school in the state.

(h) The Superintendent of Public Instruction shall apportion funds to enable school districts to meet the requirements of subdivisions (b), (f), and (g). The State Board of Education shall establish the amount of funding to be apportioned. The amount to be apportioned shall be up to eight dollars ($8) per test administered to a pupil in grades 2 to 11, inclusive.

(i) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation for the apportionments made pursuant to subdivision (g) shall be deemed to be "General Fund revenues appropriated for school districts," as defined in subdivision (c) of Section 41202 of the Education Code, for the applicable 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 that fiscal year.

(j) As a condition to receiving an apportionment pursuant to subdivision (h), a school district shall report to the superintendent all of the following:

(1) The number of pupils enrolled in the school district in grades 2 to 11, inclusive.

(2) The number of pupils to whom an achievement test was administered in grades 2 to 11, inclusive, in the school district.

(3) The number of pupils in paragraph (1) who were exempted from the test pursuant to subdivision (e) of Section 60640.

(4) The number of pupils in paragraph (1) who were exempted from the test at the request of their parents or guardians.

60640.1. (a) For the 1997–98 fiscal year, a school district may receive reimbursement for costs of a test in addition to the test designated pursuant to Section 60642 if all of the following conditions are met:

(1) On or before July 1, 1997, the school district can show that it had an executed contract with a test publisher to administer in the

1997–98 school year, pursuant to Section 60641 as that section read on June 30, 1997, a test approved by the State Board of Education.

(2) The school district certifies that, if the test is administered in the 1997–98 school year, the district will comply with the requirement of Section 60641 as that section read on June 30, 1997.

(3) The costs for which the school district seeks reimbursement pursuant to this section are not associated with the test that is designated pursuant to Section 60642.

(b) The Superintendent of Public Instruction may apportion up to five dollars ($5) per pupil in reimbursement for 1997–98 testing costs in accordance with subdivision (a).

60641. The State Department of Education shall ensure that school districts comply with each of the following requirements:

(a) The achievement test designated pursuant to Section 60642 is scheduled to be administered to all pupils during the period prescribed in subdivision (b) of Section 60640.

(b) The individual results of each pupil test administered pursuant to Section 60640 shall be reported, in writing, to the pupil's parent or guardian. The written report shall include a clear explanation of the purpose of the test, the pupil's score, and its intended use by the school district. Nothing in this subdivision shall be construed to require teachers to prepare individualized explanations of each pupil's test score.

(c) The individual results of each pupil test administered pursuant to Section 60640 shall also be reported to the pupil's school and teachers. The school district shall include the pupil's test results in his or her pupil records. However, except as provided in this section, individual pupil test results may only be released with the permission of the pupil's parent or guardian.

(d) The districtwide, school-level, and grade-level results of the STAR Program in each of the grades designated pursuant to Section 60640, but not the score or relative position of any individually ascertainable pupil, shall be reported to the governing board of the school district at a regularly scheduled meeting, and the countywide, school-level, and grade-level results for classes and programs under the jurisdiction of the county office of education shall be similarly reported to the county board of education at a regularly scheduled meeting. These results shall be reported at the same meeting at which the results of the assessments of applied academic skills are reported pursuant to Section 60609, when those assessments are implemented.

(e) The State Department of Education and publisher designated pursuant to Section 60642 shall make the grade, school, school district, and state results available on the Internet by June 30 of each year in which the achievement test is administered.

60642. (a) By September 1, 1997, or as soon thereafter as is practical, the State Board of Education may consider any evaluations of independent experts who have not been employed by a test

publisher in the preceeding 12 months regarding the suitability of the achievement tests submitted by publishers as required by subdivision (b) of Section 60605 for use as part of the STAR Program established by this article.

(b) Based upon a review of the achievement tests submitted and the recommendation made by the Superintendent of Public Instruction pursuant to subdivision (b) of Section 60605, the State Board of Education, in its sole discretion, based on the considerations set forth in Section 60644, shall designate for use as part of the STAR Program a single test in grades 2 to 11, inclusive, no later than November 14, 1997.

(c) The State Board of Education shall ensure that the achievement test designated pursuant to subdivision (b) contains the subject areas specified in subdivision (c) of Section 60603 for grades 2 to 8, inclusive, and the core curriculum areas specified in subdivision (e) of Section 60603 for grades 9 to 11, inclusive.

(d) The State Board of Education is hereby authorized to designate the achievement test to be administered pursuant to this article for more than one academic year subject to the availability of funds.

60643. (a) To be eligible for consideration under Section 60642 by the State Board of Education, test publishers shall agree in writing to meet the following requirements, if selected:

(1) Post a performance bond in an amount to be determined by the State Board of Education.

(2) Enter into a standard agreement with all school districts in the state that includes a payment schedule and conditions prescribed by the State Board of Education.

(3) Align the achievement test to the academically rigorous content and performance standards adopted by the State Board of Education.

(4) Comply with subdivisions (c) and (d) of Section 60645.

(5) Provide individual pupil scores to parents or guardians, teachers, and school administrators.

(6) Provide aggregate scores to teachers, administrators, governing boards of school districts, county boards of education, and the State Department of Education in all of the following forms and formats:

(A) Grade level.

(B) School level.

(C) District level.

(D) Countywide.

(E) Statewide.

(F) Comparison of statewide scores relative to other states.

(7) Provide disaggregated scores, based on limited-English-proficient status, to teachers, administrators, governing boards of school districts, county boards of education, and

the State Department of Education in the same form and formats listed in paragraph (6).

(8) Provide all information listed in paragraph (6) and in paragraph (7) to the State Board of Education and to the recipients listed in paragraph (6), in hard copy and in an electronic medium compatible for access through the Internet.

(b) Notwithstanding any other provision of law, the publisher of the achievement test designated pursuant to Section 60642 shall comply with all of the conditions and requirements enumerated in subdivision (a) to the satisfaction of the State Board of Education.

(c) The State Department of Education is hereby authorized to develop a standard agreement, subject to the approval of the State Board of Education, that all school districts shall be required to use. The agreement shall contain provisions for withholding payments for test development, publication, administration, scoring, test security, data aggregation, analysis, reporting, and electronic transmission. The State Department of Education shall specify in the standard agreement that final payments by school districts or any agent of the State of California shall be withheld until the Superintendent of Public Instruction notifies all school districts that the test administration is completed for the academic year and the State Board of Education has received complete statewide data to its satisfaction reported in the manner prescribed by this section.

(d) The State Board of Education shall consider the performance of publishers no later than July 31 following the test administration for purposes of making appropriate determinations pursuant to the standard agreement authorized pursuant to this section.

60644. In designating an achievement test pursuant to Section 60642, the State Board of Education shall adopt only a nationally normed test and shall consider each of the following criteria:

(a) Ability of the publisher to produce valid, reliable individual pupil scores.

(b) Quality and age of empirical data supporting national norm referenced data analysis of the proposed assessment.

(c) Ability to report results pursuant to the provisions of paragraphs (5) to (8), inclusive, of subdivision (a) of Section 60643 by June 30.

(d) Ability to report results that permit comparability between data from school districts' previous administration of standardized achievement tests, if feasible.

(e) Ability to provide results comparable with data from the 1998 benchmark year and administrations in subsequent years with the grade level competencies established pursuant to the academically rigorous content and performance standards adopted by the State Board of Education pursuant to Section 60605.

(f) (1) Ability to align the achievement test with academically rigorous content and performance standards adopted by the State Board of Education. It is the intent of the Legislature that, to the

extent feasible, the nationally-normed test shall be augmented with items that assess the specific grade-level content standards accepted by the State Board of Education pursuant to subdivision (a) of Section 60605.

(2) Until the State Board of Education adopts academically rigorous content and performance standards, the test shall be consistent with Section 60200.4, reasonably aligned with the state curriculum frameworks, and substantively aligned with the program advisories jointly adopted by the Superintendent of Public Instruction, the State Board of Education, and the Commission on Teacher Credentialing in 1996.

(g) The circumstances, if any, under which a publisher forfeited a performance bond.

(h) Per-pupil cost estimates of administering the proposed assessment.

(i) The publisher's procedure for ensuring the security and integrity of test questions and materials.

(j) Experience in the successful conduct of testing programs adopted and administered by other states. For experience to be considered, the number of grades and pupils tested shall be provided.

60645. (a) The panel established pursuant to Section 60606 shall review the achievement test designated by the State Board of Education pursuant to Section 60642 and items identified in subdivision (d) for compliance with Section 60614.

(b) Any test questions or test content identified by the panel to be out of compliance with Section 60614 shall be recommended for deletion or replacement pursuant to subdivision (e) of Section 60606.

(c) The State Board of Education shall ensure that any question or content not in compliance with Section 60614 is deleted from assessments designated pursuant to Section 60642.

(d) If necessary to maintain the requirements of Section 60644, the publisher shall replace deleted test content with revisions that comply with Section 60614 as required by the State Board of Education pursuant to subdivision (c).

60646. (a) If the State Board of Education determines at a regular scheduled meeting that the publisher of the achievement test designated under Section 60642 is unable to meet without just cause the obligations of Section 60643, 60644, or 60645, it shall notify the publisher that the performance bond posted under Section 60643 shall be forfeited to the State of California. Notwithstanding any other provision of law, the proceeds from a forfeit of a performance bond pursuant to this section shall be deposited in the Proposition 98 Reversion Account in the General Fund.

(b) Neither the State of California nor any agent of the State Board of Education, Superintendent of Public Instruction, or local educational agency shall be liable for undelivered work in progress by the publisher as a result of a determination made by the State Board of Education pursuant to subdivision (a).

(c) For purposes of subdivision (b), work in progress activities include, but are not limited to, the following activities: development, test revision pursuant to Section 60644 or 60645, administration, scoring, data aggregation, analysis, reporting, or transmission of results.

60647. Any action to challenge any provision of this article or any determination made by the State Board of Education thereunder, shall be filed and adjudicated pursuant to the provisions of Sections 860 to 870, inclusive, of the Code of Civil Procedure, except that any determination made by the State Board of Education pursuant to Section 60642 may only be challenged by an unsuccessful publisher pursuant to an action filed within 30 days thereafter. No exercise of discretion by the State Board of Education in its administration of this article or exercise of its discretion pursuant to Section 60605 shall be overturned absent a finding that the State Board of Education acted in an arbitrary and capricious manner.

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.

SEC. 13. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for the Standardized Testing and Reporting Program, and the other important reforms made by this act, to operate effectively during the 1997–98 school year, it is necessary that this act take effect immediately.

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## CHAPTER 829

An act to amend Section 62000.8 of the Education Code, relating to special education.

[Approved by Governor October 9, 1997. Filed with Secretary of State October 10, 1997.]

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

SECTION 1. Section 62000.8 of the Education Code is amended to read:

62000.8. The special education program shall sunset on June 30, 2000.

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.

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## CHAPTER 830

An act to amend Section 6025 of the Penal Code, relating to corrections.

[Approved by Governor October 9, 1997. Filed with Secretary of State October 10, 1997.]

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

SECTION 1. Section 6025 of the Penal Code is amended to read:

6025. (a) The Board of Corrections shall be composed of 13 members, one of whom shall be the Secretary of the Youth and Adult Correctional Agency who shall be designated as the chairperson, one of whom shall be the Director of Corrections, one of whom shall be the Director of the Youth Authority, and 10 of whom shall be appointed by the Governor after consultation with, and with the advice of, the Secretary of the Youth and Adult Correctional Agency, and with the advice and consent of the Senate. The gubernatorial appointments shall include all of the following:

(1) A county sheriff in charge of a local detention facility which has a Board of Corrections rated capacity of 200 or less inmates.

(2) A county sheriff in charge of a local detention facility which has a Board of Corrections rated capacity of over 200 inmates.

(3) A county supervisor or county administrative officer.

(4) A chief probation officer from a county with a population over 200,000.

(5) A chief probation officer from a county with a population under 200,000.

(6) A manager or administrator of a county local detention facility.

(7) An administrator of a local community-based correctional program.

(8) Two public members.

(9) A rank and file representative of a local corrections facility, as described in Section 6035, at the level of the first line supervisor or below, with a minimum of five years of experience.

(b) Of the members first appointed by the Governor, two shall be appointed for a term of two years, three for a term of three years, and three for a term of four years. The length of the original term to be served by each member first appointed shall be determined by lot. Their successors shall serve for a term of three years and until appointment and qualification of their successors, each term to commence on the expiration date of the term of the predecessor.

(c) The board shall select a vice chairperson from among its members. Seven members of the board shall constitute a quorum.

(d) When the board is hearing charges against any member, the individual concerned shall not sit as a member of the board for the period of hearing of charges and the determination of recommendations to the Governor.

(e) If any appointed member is not in attendance for three consecutive meetings the board shall recommend to the Governor that the member be removed and the Governor shall make a new appointment, with the advice and consent of the Senate, for the remainder of the term.

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## CHAPTER 831

An act to amend and renumber Section 69619.1 of, to add Section 44392 to, and to repeal and add Section 44391 of, the Education Code, relating to teachers.

[Approved by Governor October 9, 1997. Filed with
Secretary of State October 10, 1997.]

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

SECTION 1. Section 44391 of the Education Code is repealed.

SEC. 2. Section 44391 is added to the Education Code, to read:

44391. This article shall be known and may be cited as the Wildman-Keeley-Solis Exemplary Teacher Training Act of 1997.

SEC. 3. Section 44392 is added to the Education Code, to read:

44392. For the purposes of this section, unless the context clearly requires otherwise, the following terms shall have the following meanings:

(a) “Institutions of higher education” means the California Community Colleges, the California State University, the University of California, and private institutions of higher education that offer an accredited teacher training program.

(b) “Program” means the California School Paraprofessional Teacher Training Program established pursuant to Section 44393.

(c) “Teaching paraprofessional” means the following job classifications: educational aide, special education aide, teacher associate, teacher assistant, teacher aide, pupil service aide, and library aide.

(d) “Teacher training program” means any undergraduate or graduate program of instruction conducted by a campus of an institution of higher education that includes a developmentally sequenced career ladder to provide instruction, coursework, and clearly defined tasks for each level of the ladder, and that is designed to qualify students enrolled in the program for a teaching credential authorizing instruction in kindergarten and grades 1 to 12, inclusive.

SEC. 3.5. Section 44392 is added to the Education Code, to read:

44392. For the purposes of this article, unless the context clearly requires otherwise, the following terms shall have the following meanings:

(a) “Institutions of higher education” means the California Community Colleges, the California State University, the University of California, and private institutions of higher education that offer an accredited teacher training program.

(b) “Program” means the California School Paraprofessional Teacher Training Program established pursuant to Section 44393.

(c) “Teaching paraprofessional” means the following job classifications: educational aide, special education aide, special education assistant, teacher associate, teacher assistant, teacher aide, pupil service aide, library aide, child development aide, child development assistant, and physical education aide.

(d) “Teacher training program” means any undergraduate or graduate program of instruction conducted by a campus of an institution of higher education that includes a developmentally sequenced career ladder to provide instruction, coursework, and clearly defined tasks for each level of the ladder, and that is designed to qualify students enrolled in the program for a teaching credential authorizing instruction in kindergarten and grades 1 to 12, inclusive.

SEC. 4. Section 69619.1 of the Education Code is amended and renumbered to read:

44393. (a) The California School Paraprofessional Teacher Training Program is hereby established for the purpose of recruiting paraprofessionals to participate in a program designed to encourage them to enroll in teacher training programs and to provide instructional service as teachers in the public schools.

(b) Commencing on January 1, 1998, the Commission on Teacher Credentialing, in consultation with the Chancellor of the California

Community Colleges, the Chancellor of the California State University, the President of the University of California, the chancellors of private institutions of higher education that offer accredited teacher training programs, and representatives of certificated and classified employee organizations, shall select 24 or more school districts or county offices of education representing rural, urban, and suburban areas that apply to participate in the program. The commission shall ensure that, at a minimum, a total of 600 school paraprofessionals are recruited from among the 24 or more participating school districts or county offices of education. The criteria adopted by the commission for the selection of school districts or county offices of education to participate in the program shall include all of the following:

(1) The extent to which the applicant school district or county office of education demonstrates the capacity and willingness to accommodate the participation of school paraprofessionals of the school district or county office of education in teacher training programs conducted at institutions of higher education.

(2) The extent to which the applicant's plan for the implementation of its recruitment program involves the active participation of one or more local campuses of the participating institutions of higher education in the development of coursework and teaching programs for participating school paraprofessionals. Each selected school district or county office of education shall be required to enter into a written articulation agreement with the participating campuses of institutions of higher education.

(3) The extent to which the applicant's plan for recruitment attempts to meet the demand for bilingual crosscultural teachers.

(4) The extent to which the applicant's plan for recruitment attempts to meet the demand for special education teachers.

(5) The extent to which the applicant's plan for recruitment includes a developmentally sequenced series of job descriptions that lead from an entry-level school paraprofessional position to an entry-level teaching position in that school district or county office of education.

(6) The extent to which the applicant's plan for recruitment attempts to meet its own specific teacher needs.

(7) The extent to which the applicant's plan for implementation of its recruitment program involves participation in a district internship program pursuant to Sections 44325, 44326, 44327, 44328, and 44830.3 or a university internship program pursuant to Article 3 (commencing with Section 44450) of Chapter 3.

(c) Each selected school district or county office of education shall provide information and assistance to each school paraprofessional it recruits under the program regarding admission to a teacher training program.

(d) The school district or county office of education shall recruit and organize groups, or "cohorts," of school paraprofessionals, of no

more than 30, and no less than 10, paraprofessionals in each cohort. Cohorts shall be organized to consist of school paraprofessionals having approximately equal academic experience and qualifications, as determined by the school district or county office of education. The members of each cohort shall enroll in the same campus, and shall be provided by the school district or county office of education with appropriate support and information throughout the course of their studies. Each school district or county office of education shall certify that it has received a commitment from each member of a cohort that he or she will complete one school year of classroom instruction in the district or county office of education for each year that he or she receives assistance for books, fees, and tuition while attending an institution of higher education under the program. To the extent possible, the members of each cohort shall proceed through the same waiver and credential programs. To the extent that any participant does not fulfill his or her obligation to complete one year of classroom instruction for each year of financial assistance he or she received under the program, the participant shall be required to repay the assistance.

(e) The commission shall contract with an independent evaluator with a proven record of experience in assessing career-advancement programs or teacher training programs to determine the success of the recruitment programs established pursuant to subdivision (b). The evaluation shall be made on an annual basis and shall include, but not be limited to, all of the following:

(1) The total cost per person participating in the program who successfully obtains a teaching credential, based upon all state, local, federal, and other sources of funding.

(2) The economic status of persons participating in the program.

(3) A description of financial and other resources made available to each recruitment program by participating school districts or county offices of education, institutions of higher education, and other participating organizations.

(4) The extent to which pupil performance on standardized achievement tests has improved in classes taught by teachers who have successfully completed the program, in comparison to classes taught by other teachers who have equivalent teaching experience.

(5) The extent to which pupil dropout rates and other measures of delinquency have improved in classes taught by teachers who have successfully completed the program.

(6) The extent to which teachers who have successfully completed the program remain in the communities in which they reside and in which they teach.

(7) The attrition rate of teachers who have successfully completed the program.

(f) Each selected school district or county office of education shall report to the commission regarding the progress of each cohort of

school paraprofessionals, and other information regarding its recruitment program as the commission may direct.

(g) No later than January 1, 1998, and annually thereafter, the commission shall report to the Legislature regarding the status of the pilot program, including, but not limited to, the number of school paraprofessionals recruited, the academic progress of the school paraprofessionals recruited, the number of school paraprofessionals recruited who are subsequently employed as teachers in the public schools, the degree to which the program meets the demand for bilingual and special education teachers, the degree to which the program or similar programs can meet that demand if properly funded and executed, and other effects upon the operation of the public schools.

(h) It is the intent of the Legislature that, commencing with the 1997–98 fiscal year, and each fiscal year thereafter, funding for the California School Paraprofessional Teacher Training Program be allocated to the Commission on Teacher Credentialing for grants to school districts pursuant to this section. In no case shall grants to any school district exceed the equivalent of three thousand dollars ($3,000) annually per paraprofessional in the program. Funding for grants to school districts, pursuant to this subdivision, shall be contingent upon an appropriation in the annual Budget Act.

SEC. 4.5. Section 69619.1 of the Education Code is amended and renumbered to read:

44393. (a) The California School Paraprofessional Teacher Training Program is hereby established for the purpose of recruiting paraprofessionals to participate in a program designed to encourage them to enroll in teacher training programs and to provide instructional service as teachers in the public schools.

(b) Commencing on January 1, 1998, the Commission on Teacher Credentialing, in consultation with the Chancellor of the California Community Colleges, the Chancellor of the California State University, the President of the University of California, the chancellors of private institutions of higher education that offer accredited teacher training programs, and representatives of certificated and classified employee organizations, shall select 24 or more school districts or county offices of education representing rural, urban, and suburban areas that apply to participate in the program. The commission shall ensure that, at a minimum, a total of 600 school paraprofessionals are recruited from among the 24 or more participating school districts or county offices of education. The criteria adopted by the commission for the selection of school districts or county offices of education to participate in the program shall include all of the following:

(1) The extent to which the applicant school district or county office of education demonstrates the capacity and willingness to accommodate the participation of school paraprofessions of the

school in teacher training programs conducted at institutions of higher education.

(2) The extent to which the applicant's plan for the implementation of its recruitment program involves the active participation of one or more local campuses of the participating institutions of higher education in the development of coursework and teaching programs for participating school paraprofessionals. Each selected school district or county office of education shall be required to enter into a written articulation agreement with the participating campuses of the institutions of higher education.

(3) The extent to which the applicant's plan for recruitment attempts to meet the demand for bilingual cross cultural teachers.

(4) The extent to which the applicant's plan for recruitment attempts to meet the demand for multiple subject credentialed teachers interested in teaching kindergarten or any of grades 1 to 3, inclusive. For purposes of this paragraph, each paraprofessional selected to participate shall have completed at least two years of undergraduate college or university coursework and shall have demonstrated an interest in obtaining a multiple subject teaching credential for teaching kindergarten or any of grades 1 to 3, inclusive.

(5) The extent to which the applicant's plan for recruitment attempts to meet the demand for special education teachers.

(6) The extent to which the applicant's plan for recruitment includes a developmentally sequenced series of job descriptions that lead from an entry-level school paraprofessional position to an entry-level teaching position in that school district or county office of education.

(7) The extent to which the applicant's plan for recruitment attempts to meet its own specific teacher needs.

(8) The extent to which the applicant's plan for implementation of its recruitment program involves participation in a district internship program pursuant to Sections 44325, 44326, 44327, 44328, and 44830.3 or a university internship program pursuant to Article 3 (commencing with Section 44450) of Chapter 3.

(c) Each selected school district or county office of education shall provide information and assistance to each school paraprofessional it recruits under the program regarding admission to a teacher training program.

(d) The school district or county office of education shall recruit and organize groups, or "cohorts," of school paraprofessionals, of no more than 30, and no less than 10, paraprofessionals in each cohort. Cohorts shall be organized to consist of school paraprofessionals having approximately equal academic experience and qualifications, as determined by the school district or county office of education. The members of each cohort shall enroll in the same campus, and shall be provided by the school district or county office of education with appropriate support and information throughout the course of their studies. Each school district or county office of education shall certify

that it has received a commitment from each member of a cohort that he or she will complete one school year of classroom instruction in the district or county office of education for each year that he or she receives assistance for books, fees, and tuition while attending an institution of higher education under the program. To the extent possible, the members of each cohort shall proceed through the same waiver and credential programs. To the extent that any participant does not fulfill his or her obligation to complete one year of classroom instruction for each year of financial assistance he or she received under the program, the participant shall be required to repay the assistance.

(e) The commission shall contract with an independent evaluator with a proven record of experience in assessing career-advancement programs or teacher training programs to determine the success of the recruitment programs established pursuant to subdivision (b). The evaluation shall be made on an annual basis and shall include, but not be limited to, all of the following:

(1) The total cost per person participating in the program who successfully obtains a teaching credential, based upon all state, local, federal, and other sources of funding.

(2) The economic status of persons participating in the pilot program.

(3) A description of financial and other resources made available to each recruitment program by participating school districts or county offices of education, institutions of higher education, and other participating organizations.

(4) The extent to which pupil performance on standardized achievement tests has improved in classes taught by teachers who have successfully completed the program, in comparison to classes taught by other teachers who have equivalent teaching experience.

(5) The extent to which pupil dropout rates and other measures of delinquency have improved in classes taught by teachers who have successfully completed the program.

(6) The extent to which teachers who have successfully completed the program remain in the communities in which they reside and in which they teach.

(7) The attrition rate of teachers who have successfully completed the program.

(f) Each selected school district or county office of education shall report to the commission regarding the progress of each cohort of school paraprofessionals, and other information regarding its recruitment program as the commission may direct.

(g) No later than January 1, 1998, and annually thereafter, the commission shall report to the Legislature regarding the status of the pilot program, including, but not limited to, the number of school paraprofessionals recruited, the academic progress of the school paraprofessionals recruited, the number of school paraprofessionals recruited who are subsequently employed as teachers in the public

schools, the degree to which the program meets the demand for bilingual and special education teachers, the degree to which the program or similar programs can meet that demand if properly funded and executed, and other effects upon the operation of the public schools.

(h) It is the intent of the Legislature that, commencing with the 1997–98 fiscal year, and each fiscal year thereafter, funding for the California School Paraprofessional Teacher Training Program be allocated to the Commission on Teacher Credentialing for grants to school districts pursuant to this section. In no case shall grants to any school district exceed the equivalent of three thousand dollars ($3,000) annually per paraprofessional in the program. Funding for grants to school districts pursuant to this subdivision, shall be contingent upon an appropriation in the annual Budget Act.

SEC. 3. Section 3.5 of this bill adds Section 44392 to the Education Code as proposed by both this bill and AB 352. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1998, (2) each bill adds Section 44392 to the Education Code, and (3) this bill is enacted after AB 352, in which case Section 3 of this bill shall not become operative.

SEC. 4. Section 4.5 of this bill incorporates amendments to Section 69619.1 of the Education Code proposed by both this bill and AB 352. 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 69619.1 of the Education Code, and (3) this bill is enacted after AB 352, in which case Section 4 of this bill shall not become operative.

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## CHAPTER 832

An act to amend Sections 20588 and 31657 of the Government Code, relating to county employees.

[Approved by Governor October 9, 1997. Filed with Secretary of State October 10, 1997.]

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

SECTION 1. Section 20588 of the Government Code is amended to read:

20588. Notwithstanding any other provision of this article, the board may, pursuant to this section and Section 31657, enter into an agreement with the board of retirement of a county maintaining a county retirement system, for termination of participation of a city whose contract has been in effect for at least five years in this system or the state with respect to certain safety members who have ceased to be employed by the city or the state and have been employed by

a county, fire authority, or district as a result of a transfer of firefighting or law enforcement functions from the city or the state to the county, fire authority, or district and inclusion of the former city or state employees in that county retirement system. The agreement shall contain provisions the board finds necessary to protect the interests of this system for determination of the amount, time, manner of transfer of cash or the securities, or both, to be transferred to the county system as representing the actuarial value of the interests in the retirement fund of the city or the state and the transferred employees by reason of accumulated contributions credited to that city or the state and the employees transferred. The agreement shall apply only to employees who are employed by the county or district on the effective date of the agreement. All liability of this system with respect to the members transferred under that agreement shall cease and shall become the liability of the county retirement system as of the date of transfer specified in the agreement. Liability of the county retirement system shall be for payment of benefits to transferred employees in accordance with Chapter 3 (commencing with Section 31450) of Part 3 of Division 4 of Title 3. Any member transferred who becomes a member of a county retirement system upon that transfer date shall be subject to provisions of this part and of Chapter 3 (commencing with Section 31450) of Part 3 of Division 4 of Title 3 extending rights to a member or subjecting him or her to limitations because of membership in another retirement system to the same extent that he or she would have been had he or she been a member of the county retirement system during his or her membership in this system.

This section shall apply only in Los Angeles and Orange Counties.

SEC. 2. Section 31657 of the Government Code is amended to read:

31657. Subject to Section 20588, whenever, as a result of the assumption by a county, fire authority, or district of firefighting or law enforcement functions performed by a city or the state subject to the Public Employees' Retirement Law, any person ceases to be employed by a city or the state and is employed by a county, fire authority, or district in which this chapter has become operative, that person shall become a member of the retirement association of a county immediately upon entrance to the county service. That member of the county retirement system shall be entitled to service credit in the county retirement system for the service for which he or she was entitled to credit in the Public Employees' Retirement System at the time of cessation of employment by the city or the state, without necessity of payment of any additional contributions in respect to that service, when and if all of the following occur:

(a) The board of retirement receives certification from the Board of Administration of the Public Employees' Retirement System of the service with which the person was entitled to be credited by the

Public Employees' Retirement System at the time of cessation of his or her city or state employment.

(b) There is paid into the county retirement fund of the county, an amount equal to the normal contributions of the person to the Public Employees' Retirement System, together with the interest credited thereto, which amount shall be credited to the individual account of the member in the county retirement system, and shall thereafter for all purposes be deemed to be the member's contribution to the county retirement system with respect to the service so certified.

(c) There is paid to the retirement system of the county an amount equal to the contributions of the city or state made to the Public Employees' Retirement System on account of service rendered by the person together with interest credited to the city or the state thereto.

(d) The board of retirement elects to apply this section as a prudent means of mitigating against potential adverse financial impact upon the county retirement system from the cost of disability retirements that may be applied for in the future by persons injured while being employed by the county, fire authority, or district after ceasing to be employed by a city or the state as a result of the assumption by a county, fire authority, or district of firefighting or law enforcement functions.

This section shall apply in a county of the first or the second class, as defined by Section 28020, as amended by Chapter 1204 of the Statutes of 1971, and Section 28022, as amended by Chapter 43 of the Statutes of 1961, and Section 28023, as amended by Chapter 1204 of the Statutes of 1971.

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## CHAPTER 833

An act to amend Section 13271 of, and to add Sections 13529, 13529.2, and 13529.4 to, the Water Code, relating to water.

[Approved by Governor October 9, 1997. Filed with Secretary of State October 10, 1997.]

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

SECTION 1. Section 13271 of the Water Code is amended to read:

13271. (a) Except as provided by subdivision (b), any person who, without regard to intent or negligence, causes or permits any hazardous substance or sewage to be discharged in or on any waters of the state, or to be discharged or deposited where the hazardous substance or sewage is, or probably will be, discharged in or on any waters of the state, shall, as soon as (1) that person has knowledge of the discharge, (2) notification is possible, and (3) notification can be

provided without substantially impeding cleanup or other emergency measures, immediately notify the Office of Emergency Services of the discharge in accordance with the spill reporting provision of the state toxic disaster contingency plan adopted pursuant to Article 3.7 (commencing with Section 8574.7) of Chapter 7 of Division 1 of Title 2 of the Government Code. The Office of Emergency Services shall immediately notify the appropriate regional board of the discharge. The regional board shall notify the state board as appropriate. The state board or the regional board shall list all notifications received by them pursuant to this section in the minutes of the next business meeting and shall provide a copy of the minutes to the appropriate local health officials.

(b) The notification required by this section shall not apply to a discharge in compliance with waste discharge requirements or other provisions of this division.

(c) Any person who fails to provide the notice required by this section is guilty of a misdemeanor and shall be punished by a fine of not more than twenty thousand dollars ($20,000) or imprisonment for not more than one year, or both. Except where a discharge to the waters of this state would have occurred but for cleanup or emergency response by a public agency, this subdivision shall not apply to any discharge to land which does not result in a discharge to the waters of this state.

(d) Notification received pursuant to this section or information obtained by use of that notification shall not be used against any person providing the notification in any criminal case, except in a prosecution for perjury or giving a false statement.

(e) For substances listed as hazardous wastes or hazardous material pursuant to Section 25140 of the Health and Safety Code, the state board, in consultation with the Department of Toxic Substances Control, shall by regulation establish reportable quantities for purposes of this section. The regulations shall be based on what quantities should be reported because they may pose a risk to public health or the environment if discharged to ground or surface water. Regulations need not set reportable quantities on all listed substances at the same time. Regulations establishing reportable quantities shall not supersede waste discharge requirements or water quality objectives adopted pursuant to this division, and shall not supersede or affect in any way the list, criteria, and guidelines for the identification of hazardous wastes and extremely hazardous wastes adopted by the Department of Toxic Substances Control pursuant to Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code. The regulations of the Environmental Protection Agency for reportable quantities of hazardous substances for purposes of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sec. 9601 and following) shall be in effect for purposes of the enforcement

of this section until the time that the regulations required by this subdivision are adopted.

(f) The state board shall adopt regulations establishing reportable quantities of sewage for purposes of this section. The regulations shall be based on the quantities that should be reported because they may pose a risk to public health or the environment if discharged to ground or surface water. Regulations establishing reportable quantities shall not supersede waste discharge requirements or water quality objectives adopted pursuant to this division. For purposes of this section, "sewage" means the effluent of a municipal wastewater treatment plant or a private utility wastewater treatment plant, as those terms are defined in Section 13625, except that sewage does not include recycled water, as defined in subdivisions (c) and (d) of Section 13529.2.

(g) Except as otherwise provided in this section and Section 8589.7 of the Government Code, a notification made pursuant to this section shall satisfy any immediate notification requirement contained in any permit issued by a permitting agency. When notifying the Office of Emergency Services, the person shall include all of the notification information required in the permit.

SEC. 1.5. Section 13271 of the Water Code is amended to read:

13271. (a) (1) Except as provided by subdivision (b), any person who, without regard to intent or negligence, causes or permits any hazardous substance or sewage to be discharged in or on any waters of the state, or discharged or deposited where it is, or probably will be, discharged in or on any waters of the state, shall, as soon as (1) that person has knowledge of the discharge, (2) notification is possible, and (3) notification can be provided without substantially impeding cleanup or other emergency measures, immediately notify the Office of Emergency Services of the discharge in accordance with the spill reporting provision of the state toxic disaster contingency plan adopted pursuant to Article 3.7 (commencing with Section 8574.16) of Chapter 7 of Division 1 of Title 2 of the Government Code.

(2) The Office of Emergency Services shall immediately notify the appropriate regional board and the local health officer and administrator of environmental health of the discharge. The regional board shall notify the state board as appropriate.

(3) Upon receiving notification of a discharge pursuant to paragraph (2), the local health officer and administrator of environmental health shall immediately determine whether notification of the public is required to safeguard public health and safety. If so, the local health officer and administrator of environmental health shall immediately notify the public of the discharge by posting notices or other appropriate means. The notification shall describe measures to be taken by the public to protect the public health.

(b) The notification required by this section shall not apply to a discharge in compliance with waste discharge requirements or other provisions of this division.

(c) Any person who fails to provide the notice required by this section is guilty of a misdemeanor and shall be punished by a fine of not more than twenty thousand dollars ($20,000) or imprisonment for not more than one year, or both. Except where a discharge to the waters of this state would have occurred but for cleanup or emergency response by a public agency, this subdivision shall not apply to any discharge to land which does not result in a discharge to the waters of this state.

(d) Notification received pursuant to this section or information obtained by use of that notification shall not be used against any person providing the notification in any criminal case, except in a prosecution for perjury or giving a false statement.

(e) For substances listed as hazardous wastes or hazardous material pursuant to Section 25140 of the Health and Safety Code, the state board, in consultation with the Department of Toxic Substances Control, shall by regulation establish reportable quantities for purposes of this section. The regulations shall be based on what quantities should be reported because they may pose a risk to public health or the environment if discharged to ground or surface water. Regulations need not set reportable quantities on all listed substances at the same time. Regulations establishing reportable quantities shall not supersede waste discharge requirements or water quality objectives adopted pursuant to this division, and shall not supersede or affect in any way the list, criteria, and guidelines for the identification of hazardous wastes and extremely hazardous wastes adopted by the Department of Toxic Substances Control pursuant to Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code. The regulations of the Environmental Protection Agency for reportable quantities of hazardous substances for purposes of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sec. 9601 et seq.) shall be in effect for purposes of the enforcement of this section until the time that the regulations required by this subdivision are adopted.

(f) The state board shall adopt regulations establishing reportable quantities of sewage for purposes of this section. The regulations shall be based on the quantities that should be reported because they may pose a risk to public health or the environment if discharged to ground or surface water. Regulations establishing reportable quantities shall not supersede waste discharge requirements or water quality objectives adopted pursuant to this division. For purposes of this section, “sewage” means the effluent of a municipal wastewater treatment plant or a private utility wastewater treatment plant, as those terms are defined in Section 13625, except that sewage does not

include recycled water, as defined in subdivisions (c) and (d) of Section 13529.2.

(g) Except as otherwise provided in this section and Section 8589.7 of the Government Code, a notification made pursuant to this section shall satisfy any immediate notification requirement contained in any permit issued by a permitting agency. When notifying the Office of Emergency Services, the person shall include all of the notification information required in the permit.

SEC. 2. Section 13529 is added to the Water Code, to read:

13529. The Legislature hereby finds and declares all of the following:

(a) The purpose of Section 13529.2 is to establish notification requirements for unauthorized discharges of recycled water to waters of the state.

(b) It is the intent of the Legislature in enacting this section to promote the efficient and safe use of recycled water.

(c) The people of the state have a primary interest in the development of facilities to recycle water to supplement existing water supplies and to minimize the impacts of growing demand for new water on sensitive natural water bodies.

(d) A substantial portion of the future water requirements of the state may be economically met by the beneficial use of recycled water.

(e) The Legislature has established a statewide goal to recycle 700,000 acre-feet of water per year by the year 2000 and 1,000,000 acre-feet of water per year by the year 2010.

(f) The use of recycled water has proven to be safe and the State Department of Health Services is drafting regulations to provide for expanded uses of recycled water.

SEC. 3. Section 13529.2 is added to the Water Code, to read:

13529.2. (a) Any person who , without regard to intent or negligence, causes or permits an unauthorized discharge of 50,000 gallons or more of recycled water, as defined in subdivision (c), or 1,000 gallons or more of recycled water, as defined in subdivision (d), in or on any waters of the state , or causes or permits such unauthorized discharge to be discharged where it is, or probably will be, discharged in or on any waters of the state, shall, as soon as (1) that person has knowledge of the discharge, (2) notification is possible, and (3) notification can be provided without substantially impeding cleanup or other emergency measures, immediately notify the appropriate regional board.

(b) For the purposes of this section, an unauthorized discharge means a discharge not authorized by waste discharge requirements pursuant to Article 4 of Chapter 4 (commencing with Section 13260), water reclamation requirements pursuant to Section 13523, a master reclamation permit pursuant to Section 13523.1, or any other provision of this division.

(c) For the purposes of this section, "recycled water" means wastewater treated as "disinfected tertiary 2.2 recycled water," as defined or described by the State Department of Health Services or wastewater receiving advanced treatment beyond disinfected tertiary 2.2 recycled water.

(d) For purposes of this section, "recycled water" means "recycled water," as defined in subdivision (n) of Section 13050, which is treated at a level less than "disinfected tertiary 2.2 recycled water," as defined or described by the State Department of Health Services.

(e) The requirements in this section supplement, and shall not supplant, any other provisions of law.

SEC. 4. Section 13529.4 is added to the Water Code, to read:

13529.4. (a) Any person refusing or failing to provide the notice required by Section 13529.2, or as required by a condition of waste discharge requirements requiring notification of unauthorized releases of recycled water as defined in Section 13529.2, may be subject to administrative civil liability in an amount not to exceed the following:

(1) For the first violation, or a subsequent violation occurring more than 365 days from a previous violation, five thousand dollars ($5,000).

(2) For a second violation occurring within 365 days of a previous violation, ten thousand dollars ($10,000).

(3) For a third or subsequent violation occurring within 365 days of a previous violation, twenty-five thousand dollars ($25,000).

(b) The penalties in this section supplement, and shall not supplant, any other provisions of law.

SEC. 5. Section 1.5 of this bill incorporates amendments to Section 13271 of the Water Code proposed by both this bill and Senate Bill 105. 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 13271 of the Water Code, and (3) this bill is enacted after Senate Bill 105, in which case Section 1 of this bill shall not become operative.

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## CHAPTER 834

An act to amend Section 49558 of the Education Code, relating to education.

[Approved by Governor October 9, 1997. Filed with Secretary of State October 10, 1997.]

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

SECTION 1. Section 49558 of the Education Code is amended to read:

49558. (a) All applications and records concerning any individual made or kept by any public officer or agency in connection with the administration of any provision of this code relating to free or reduced price meal eligibility shall be confidential, and shall not be open to examination for any purpose not directly connected with the administration of any free or reduced price meal program, or any investigation, prosecution, or criminal or civil proceeding conducted in connection with the administration of any free or reduced price meal program.

(b) Notwithstanding subdivision (a), a public officer or agency may allow the use by school district employees, who are authorized by the governing board of the school district, of individual records pertaining to pupil participation in any free or reduced price meal program solely for the purpose of disaggregation of academic achievement data if the public agency ensures the following:

(1) The public agency has adopted a policy which allows for the use of individual records for these purposes.

(2) No individual indicators of participation in any free or reduced price meal program are maintained in the permanent record of any pupil if not otherwise allowed by law.

(3) No public release of information regarding individual pupil participation in any free or reduced price meal program is permitted.

(4) All other confidentiality provisions required by law are met.

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## CHAPTER 835

An act to amend Sections 98 and 98.02 of the Revenue and Taxation Code, relating to local government finance.

[Approved by Governor October 9, 1997. Filed with Secretary of State October 10, 1997.]

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

SECTION 1. Section 98 of the Revenue and Taxation Code is amended to read:

98. (a) In each county, other than the County of Ventura, having within its boundaries a qualifying city, the computations made pursuant to Section 96.1 or its predecessor section, for the 1989–90 fiscal year and each fiscal year thereafter, shall be modified as follows:

With respect to tax rate areas within the boundaries of a qualifying city, there shall be excluded from the aggregate amount of “property tax revenue allocated pursuant to this chapter to local agencies, other

than for a qualifying city, in the prior fiscal year," an amount equal to the sum of the amounts calculated pursuant to the TEA formula.

(b) (1) Except as otherwise provided in this section, each qualifying city shall, for the 1989–90 fiscal year and each year thereafter, be allocated by the auditor an amount determined pursuant to the TEA formula.

(2) For each qualifying city, the auditor shall, for the 1989–90 fiscal year and each year thereafter, allocate the amount determined pursuant to the TEA formula to all tax rate areas within that city in proportion to each tax rate area's share of the total assessed value in the city for the applicable fiscal year, and the amount so determined shall be subtracted from the county's proportionate share of property tax revenue for that fiscal year within those tax rate areas.

(3) After making the allocations pursuant to paragraphs (1) and (2), but before making the calculations pursuant to Section 96.5 or its predecessor section, the auditor shall, for all tax rate areas in the qualifying city, calculate the proportionate share of property tax revenue allocated pursuant to this section and Section 96.1, or their predecessor sections, in the 1989–90 fiscal year and each fiscal year thereafter to each jurisdiction in the tax rate area.

(4) In lieu of making the allocations of annual tax increment pursuant to subdivision (e) of Section 96.5 or its predecessor section, the auditor shall, for the 1989–90 fiscal year and each fiscal year thereafter, allocate the amount of property tax revenue determined pursuant to subdivision (d) of Section 96.5 or its predecessor section to jurisdictions in the tax rate area using the proportionate shares derived pursuant to paragraph (3).

(5) For purposes of the calculations made pursuant to Section 96.1 or its predecessor section, in the 1990–91 fiscal year and each fiscal year thereafter, the amounts that would have been allocated to qualifying cities pursuant to this subdivision shall be deemed to be the "amount of property tax revenue allocated in the prior fiscal year."

(c) "TEA formula" means the Tax Equity Allocation formula, and shall be calculated by the auditor for each qualifying city as follows:

(1) For the 1988–89 fiscal year and each fiscal year thereafter, the auditor shall determine the total amount of property tax revenue to be allocated to all jurisdictions in all tax rate areas within the qualifying city, before the allocation and payment of funds in that fiscal year to a community redevelopment agency within the qualifying city, as provided in subdivision (b) of Section 33670 of the Health and Safety Code.

(2) The auditor shall determine the total amount of funds allocated in each fiscal year to a community redevelopment agency in accordance with subdivision (b) of Section 33670 of the Health and Safety Code.

(3) The auditor shall determine the total amount of funds paid in each fiscal year by a community redevelopment agency within the city to jurisdictions other than the city pursuant to subdivision (b) of

Section 33401 and Section 33676 of the Health and Safety Code, and the cost to the redevelopment agency of any land or facilities transferred and any amounts paid to jurisdictions other than the city to assist in the construction or reconstruction of facilities pursuant to an agreement entered into under Section 33401 or 33445.5 of the Health and Safety Code.

(4) The auditor shall subtract the amount determined in paragraph (3) from the amount determined in paragraph (2).

(5) The auditor shall subtract the amount determined in paragraph (4) from the amount determined in paragraph (1).

(6) The amount computed in paragraph (5) shall be multiplied by the following percentages in order to determine the TEA formula amount to be distributed to the qualifying city in each fiscal year:

(A) For the first fiscal year in which the qualifying city receives a distribution pursuant to this section, 1 percent of the amount determined in paragraph (5).

(B) For the second fiscal year in which the qualifying city receives a distribution pursuant to this section, 2 percent of the amount determined in paragraph (5).

(C) For the third fiscal year in which the qualifying city receives a distribution pursuant to this section, 3 percent of the amount determined in paragraph (5).

(D) For the fourth fiscal year in which the qualifying city receives a distribution pursuant to this section, 4 percent of the amount determined in paragraph (5).

(E) For the fifth fiscal year in which the qualifying city receives a distribution pursuant to this section, 5 percent of the amount determined in paragraph (5).

(F) For the sixth fiscal year in which the qualifying city receives a distribution pursuant to this section, 6 percent of the amount determined in paragraph (5).

(G) For the seventh fiscal year and each fiscal year thereafter in which the city receives a distribution pursuant to this section, 7 percent of the amount determined in paragraph (5).

(d) "Qualifying city" means any city, except a qualifying city as defined in Section 98.1, that incorporated prior to June 5, 1987, and had an amount of property tax revenue allocated to it pursuant to subdivision (a) of Section 96.1 or its predecessor section in the 1988–89 fiscal year that is less than 7 percent of the amount of property tax revenue computed as follows:

(1) The auditor shall determine the total amount of property tax revenue allocated to the city in the 1988–89 fiscal year.

(2) The auditor shall subtract the amount in the 1988–89 fiscal year determined in paragraph (3) of subdivision (c) from the amount determined in paragraph (2) of subdivision (c).

(3) The auditor shall subtract the amount determined in paragraph (2) from the amount of property tax revenue determined in paragraph (1) of subdivision (c).

(4) The auditor shall divide the amount of property tax revenue determined in paragraph (1) of this subdivision by the amount of property tax revenue determined in paragraph (3) of this subdivision.

(5) If the quotient determined in paragraph (4) of this subdivision is less than 0.07, the city is a qualifying city. If the quotient determined in that paragraph is equal to or greater than 0.07, the city is not a qualifying city.

(e) The auditor may assess each qualifying city its proportional share of the actual costs of making the calculations required by this section, and may deduct that assessment from the amount allocated pursuant to subdivision (b). For purposes of this subdivision, a qualifying city's proportional share of the auditor's actual costs shall not exceed the proportion it receives of the total amounts excluded in the county pursuant to subdivision (a).

(f) Notwithstanding subdivision (b), in any fiscal year in which a qualifying city is to receive a distribution pursuant to this section, the auditor shall reduce the actual amount distributed to the qualifying city by the sum of the following:

(1) The amount of property tax revenue that was exchanged between the county and the qualifying city as a result of negotiation pursuant to Section 99.03.

(2) (A) Except as otherwise provided in subparagraph (B), the amount of revenue not collected by the qualifying city in the first fiscal year following the city's reduction after January 1, 1988, of the tax rate or tax base of any locally imposed general or special tax, except any tax that was imposed after January 1, 1988. In the case of a tax that existed before January 1, 1988, this paragraph shall apply only with respect to an amount attributable to a reduction of the rate or base to a level lower than the rate or base applicable on January 1, 1988. The amount so computed by the auditor shall constitute a reduction in the amount of property tax revenue distributed to the qualifying city pursuant to this section in each succeeding fiscal year. That amount shall be aggregated with any additional amount computed pursuant to this paragraph as the result of the city's reduction in any subsequent year of the tax rate or tax base of the same or any other locally imposed general or special tax.

(B) Except in the County of Santa Clara, no reduction shall be made pursuant to subparagraph (A) in the case in which a local tax is reduced or eliminated as a result of either a court decision or the approval or rejection of a ballot measure by the voters.

(3) (A) The amount of property tax revenue received pursuant to this chapter in excess of the amount allocated for the 1986–87 fiscal year by all special districts that are governed by the city council of the qualifying city or whose governing body is the same as the city council of the qualifying city with respect to all tax rate areas within the boundaries of the qualifying city.

(B) Notwithstanding subparagraph (A), commencing with the 1994–95 fiscal year, the auditor shall not reduce the amount distributed to a qualifying city under this section by reason of that city becoming the successor agency to a special district, that is dissolved, merged with that city, or becomes a subsidiary district of that city, on or after July 1, 1994.

(C) Notwithstanding subparagraph (A), commencing with the 1997–98 fiscal year, the auditor shall not reduce the amount distributed to a qualifying city under this section by reason of that city withdrawing from a county free library system pursuant to Section 19116 of the Education Code.

(4) Any amount of property tax revenues that has been exchanged pursuant to Section 56842 of the Government Code between the City of Rancho Mirage and a community services district, the formation of which was initiated on or after March 6, 1997, pursuant to Chapter 4 (commencing with Section 56800) of Part 3 of Division 3 of Title 5 of the Government Code.

(g) In any fiscal year in which a qualifying city is to receive a distribution pursuant to this section, the auditor shall increase the actual amount distributed to the qualifying city by the amount of property tax revenue allocated to the qualifying city pursuant to Section 19116 of the Education Code.

(h) If the auditor determines that the amount to be distributed to a qualifying city pursuant to subdivision (b), as modified by subdivisions (e), (f), and (g) would result in a qualifying city having proceeds of taxes in excess of its appropriation limit, the auditor shall reduce the amount, on a dollar-for-dollar basis, by the amount that exceeds the city's appropriations limit.

(i) The amount not distributed to the tax rate areas of a qualifying city as a result of this section shall be distributed by the auditor to the county.

(j) Notwithstanding any other provision of this section, no qualifying city shall be distributed an amount pursuant to this section that is less than the amount the city would have been allocated without the application of the TEA formula.

(k) Notwithstanding any other provision of this section, the auditor shall not distribute any amount determined pursuant to this section to any qualifying city that has in the prior fiscal year used any revenues or issued bonds for the construction, acquisition, or development, of any facility which is defined in Section 103(b)(4), 103(b)(5), or 103(b)(6) of the Internal Revenue Code of 1954 prior to the enactment of the Tax Reform Act of 1986 (P.L. 99-514) and is no longer eligible for tax-exempt financing.

SEC. 2. Section 98.02 of the Revenue and Taxation Code is amended to read:

98.02. (a) In the County of Ventura, the computations made pursuant to Section 96.1 or its predecessor section, for the 1989–90 fiscal year and each year thereafter, shall be modified as follows:

With respect to tax rate areas, except excluded tax rate areas, within the boundaries of a qualifying city, there shall be excluded from the aggregate amount of "property tax revenue allocated pursuant to this chapter to local agencies, other than for a qualifying city, in the prior fiscal year," an amount equal to the sum of the amounts calculated pursuant to the TEA formula.

(b) (1) Each qualifying city shall, for the 1989–90 fiscal year and each fiscal year thereafter, be allocated by the auditor an amount determined pursuant to the TEA formula.

(2) For each qualifying city, the auditor shall, for the 1989–90 fiscal year and each year thereafter, distribute the amount determined pursuant to the TEA formula to all tax rate areas, except excluded tax rate areas, within that city in proportion to each tax rate area's share of the total assessed value in the city for the applicable fiscal year, and the amount so determined shall be subtracted from the county's proportionate share of the property tax revenue for that fiscal year within those tax rate areas.

(3) After making the allocations pursuant to paragraphs (1) and (2), but before making the calculations pursuant to Section 96.5 or its predecessor section, the auditor shall, for all tax rate areas, except excluded tax rate areas, in the qualifying city, calculate the proportionate share of property tax revenue allocated pursuant to this section and Section 96.1, or their predecessor sections, in the 1989–90 fiscal year and each fiscal year thereafter to each jurisdiction in the tax rate area.

(4) In lieu of making the allocations of annual tax increment pursuant to subdivision (e) of Section 96.5 or its predecessor section, the auditor shall for the 1989–90 fiscal year and each fiscal year thereafter, allocate the amount of property tax revenue determined pursuant to subdivision (d) of Section 98 to jurisdictions in the tax rate area, except an excluded tax rate area, using the proportionate shares derived pursuant to paragraph (3).

(5) For purposes of the calculations made pursuant to Section 96.1 or its predecessor section, in the 1990–91 fiscal year and each fiscal year thereafter, the amounts that would have been allocated to all tax rate areas, except excluded tax rate areas, of qualifying cities pursuant to this subdivision shall be deemed to be the "amount of property tax revenue allocated to those tax rate areas in the prior fiscal year."

(c) "TEA formula" means the Tax Equity Allocation formula, and shall be calculated by the auditor for each qualifying city as follows:

(1) For the 1988–89 fiscal year and each fiscal year thereafter, the auditor shall determine the total amount of property tax revenue to be allocated to all jurisdictions in all tax rate areas, except excluded tax rate areas, within the qualifying city, before the allocation and payment of funds in that fiscal year to a community redevelopment agency within the qualifying city, as provided in subdivision (b) of Section 33670 of the Health and Safety Code.

(2) The auditor shall determine the amount of funds allocated in each fiscal year to those tax rate areas, except excluded tax rate areas, within a community redevelopment agency in accordance with subdivision (b) of Section 33670 of the Health and Safety Code.

(3) (A) The auditor shall determine the total amount of funds paid in each fiscal year by a community redevelopment agency within the city to jurisdictions other than the city pursuant to subdivision (b) of Section 33401 and Section 33676 of the Health and Safety Code, and the cost to the redevelopment agency of any land or facilities transferred and any amounts paid to jurisdictions other than the city to assist in the construction or reconstruction of facilities pursuant to an agreement entered into under Section 33401 or 33445.5 of the Health and Safety Code.

(B) Of the total amount determined in subparagraph (A), the auditor shall compute a proportionate amount to be attributed to all tax rate areas, except excluded tax rate areas, within the community redevelopment agency. That proportionate amount shall be equal to that proportion which the amount determined in paragraph (2) in each fiscal year bears to the total amount of funds allocated in each fiscal year to a community redevelopment agency in accordance with subdivision (b) of Section 33670 of the Health and Safety Code.

(4) The auditor shall subtract the amount determined in subparagraph (B) of paragraph (3) from the amount determined in paragraph (2).

(5) The auditor shall subtract the amount determined in paragraph (4) from the amount determined in paragraph (1).

(6) The amount computed in paragraph (5) shall be multiplied by the following percentages in order to determine the TEA formula amount to be distributed to the qualifying city in each fiscal year:

(A) For the first fiscal year in which the qualifying city receives a distribution pursuant to this section, 1 percent of the amount determined in paragraph (5).

(B) For the second fiscal year in which the qualifying city receives a distribution pursuant to this section, 2 percent of the amount determined in paragraph (5).

(C) For the third fiscal year in which the qualifying city receives a distribution pursuant to this section, 3 percent of the amount determined in paragraph (5).

(D) For the fourth fiscal year and each fiscal year thereafter in which the qualifying city receives a distribution pursuant to this section, 4 percent of the amount determined in paragraph (5).

(d) For purposes of this section, "excluded tax rate area" means either of the following:

(1) Any tax rate area included in territory annexed by the qualifying city and allocated a prescribed percentage of property tax revenue pursuant to an existing agreement between the qualifying city and the county.

(2) Any tax rate area described in paragraph (1) that was detached from the county library district and that is also allocated an additional prescribed percentage of property tax revenue pursuant to an existing agreement between the qualifying city and the county.

(e) (1) All existing agreements between the qualifying city and the county covering the allocation of property tax revenues to tax rate areas described in subdivision (d) shall remain in force.

(2) All existing agreements between the qualifying city and the county covering the allocation of property tax revenues to tax rate areas that were detached from the county library district but are not included in territory that was annexed by the qualifying city shall remain in force.

(3) All allocations to those tax rate areas described in subdivision (d), including allocations of annual tax increments, made pursuant to the existing agreements between the qualifying city and the county shall be governed by subdivision (a) of Section 96.1 and Section 96.5.

(4) All allocations to those tax rate areas described in paragraph (2), including allocations of annual tax increments, made pursuant to the existing agreements between the qualifying city and the county shall be governed by subdivision (a) of Section 96.1 and Section 96.5. However, the tax rate areas referred to in this paragraph shall also be distributed an amount of property tax revenue determined pursuant to the TEA formula that is over and above the amount allocated as provided in the preceding sentence.

(f) "Qualifying city" means any city that incorporated prior to June 5, 1987, and had an amount of property tax revenue allocated to it pursuant to subdivision (a) of Section 96.1 or its predecessor section in the 1988–89 fiscal year that is less than 4 percent of the amount of property tax revenue computed as follows:

(1) The auditor shall determine the total amount of property tax revenue allocated to all tax rate areas, except excluded tax rate areas, in the city in the 1988–89 fiscal year.

(2) The auditor shall subtract the amount in the 1988–89 fiscal year determined in paragraph (3) of subdivision (c) from the amount determined in paragraph (2) of subdivision (c).

(3) The auditor shall subtract the amount determined in paragraph (2) from the amount of property tax revenue in paragraph (1) of subdivision (c).

(4) The auditor shall divide the amount of property tax revenue determined in paragraph (1) of this subdivision by the amount of property tax revenue determined in paragraph (3) of this subdivision.

(5) If the quotient determined in paragraph (4) of this subdivision is less than 0.04, the city is a qualifying city. If the quotient determined in that paragraph is equal to or greater than 0.04, the city is not a qualifying city.

(g) The auditor may assess each qualifying city its proportional share of the actual costs of making the calculations required by this section, and may deduct that assessment from the amount allocated pursuant to subdivision (b). For purposes of this subdivision, a qualifying city's proportional share of the auditor's actual costs shall not exceed the proportion it receives of the total amounts excluded in the county pursuant to subdivision (a).

(h) (1) Notwithstanding subdivision (b), except as otherwise provided in paragraph (2), in any fiscal year in which a qualifying city receives a distribution pursuant to this section, the auditor shall reduce the actual amount distributed to the qualifying city by the amount of revenue not collected by the qualifying city in the first fiscal year following the city's reduction after January 1, 1988, of the tax rate or tax base of any locally imposed general or special tax. The amount so computed by the auditor shall constitute a reduction in the amount of property tax revenue distributed to the qualifying city pursuant to this section in each succeeding fiscal year. That amount shall be aggregated with any additional amount computed pursuant to this paragraph as the result of the city's reduction in any subsequent year of the tax rate or tax base of the same or any other locally imposed general or special tax.

(2) No reduction shall be made pursuant to paragraph (1) in the case in which a local tax is reduced or eliminated as a result of either a court decision or the approval or rejection of a ballot measure by the voters.

(i) If the auditor determines that the amount to be distributed to a qualifying city pursuant to subdivision (b), as modified by subdivisions (g) and (h), would result in a qualifying city having proceeds of taxes in excess of its appropriation limit, the auditor shall reduce the amount, on a dollar-for-dollar basis, by the amount that exceeds the city's appropriations limit.

(j) The amount not distributed to tax rate areas, except excluded tax rate areas, of a qualifying city as a result of this section shall be distributed by the auditor to the county.

(k) Notwithstanding any other provision of this section, no qualifying city shall be distributed an amount pursuant to this section that is less than the amount the city would have been allocated without the application of the TEA formula.

(*l*) Notwithstanding any other provision of this section, commencing with the 1994–95 fiscal year, the auditor shall not reduce the amount distributed to a qualifying city under this section by reason of that city becoming the successor agency to a special district that is dissolved, merged with that city, or becomes a subsidiary district of that city, on or after July 1, 1994.

(m) The amount not distributed as a result of this section to the tax rate areas, except excluded tax rate areas, in each qualifying city shall be allocated by the auditor to the county.

SEC. 3. Notwithstanding the amendment of Section 33401 of the Health and Safety Code by Chapter 942 of the Statutes of 1993, the redevelopment agency of the City of Rancho Mirage: (a) that prior to January 1, 1994, had entered into an agreement with the County of Riverside pursuant to Section 33401 to pay a portion of its tax increments to the county, (b) where a portion of these payments were for the purpose of alleviating the financial impact of the project area upon the county's ability to provide library services to the City of Rancho Mirage, (c) where the provision of the library services to the City of Rancho Mirage is no longer being provided by the county, (d) where the payment to the county pursuant to the agreement has been reduced because the county is no longer providing library services, and (e) where a community services district formed pursuant to Chapter 4 (commencing with Section 56800) of Part 3 of Division 3 of Title 5 of the Government Code will provide the library services to the City of Rancho Mirage, may enter into an agreement with the community services district for the purpose of making payments to the community services district. The payments pursuant to the agreement shall not be made prior to the date the community services district commences providing library service to the City of Rancho Mirage and shall not exceed the amount that would have previously been paid to the county to alleviate the financial impact of the project area upon the county's ability to provide library services to the City of Rancho Mirage.

SEC. 4. 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, distorting, and unintended impact of current law upon the amounts of annual property tax revenue allocations made in the County of Riverside to the City of Rancho Mirage.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act provides for offsetting savings to local agencies or school districts that result in no net costs to the local agencies or school districts, within the meaning of Section 17556 of the Government Code.

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

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## CHAPTER 836

An act to add Section 13660 to, and to repeal Section 13412 of, the Business and Professions Code, relating to disability.

[Approved by Governor October 9, 1997. Filed with
Secretary of State October 10, 1997.]

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

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

(a) Because of the size of the State of California, the design of its urban areas, and the limited availability of public transportation in many areas, millions of Californians depend on motor vehicles as their basic means of transportation.

(b) For many persons with disabilities, the ability to operate a motor vehicle is a vital component in ensuring full integration into society, independent living, and achievement of educational and career goals. Most of these individuals are unable to safely refuel their own vehicles and must rely on service station personnel to provide this service.

(c) Section 13412 of the Business and Professions Code, which was enacted by Chapter 530 of the Statutes of 1982, provides that persons with disabilities are entitled to receive refueling assistance unless the station does not provide refueling service to the general public and pumps are remotely controlled by a single cashier.

(d) Since 1982, the number of service stations with full-service fuel pumps has decreased significantly making it increasingly difficult for persons with disabilities to obtain refueling services.

(e) This situation is contrary to the intent of the Americans with Disabilities Act of 1990 and represents a significant threat to the safety and independence of persons with disabilities.

(f) In 1995, the Legislature passed Senate Concurrent Resolution 16 (Resolution Chapter 67 of the Statutes of 1996) calling upon the Department of Rehabilitation to convene a special task force with representatives from the disabled community and the service station industry to develop recommendations on improving access to refueling services for persons with disabilities. The purpose of this act is to enact changes in state law recommended by that task force and to direct the Department of Rehabilitation and the Department of Transportation to carry out certain additional measures agreed upon by the task force.

(g) This act is also intended to simplify and clarify access compliance responsibilities for owners and operators of gasoline service stations by aligning state law with the requirements of the Americans with Disabilities Act of 1990.

SEC. 2. Section 13412 of the Business and Professions Code is repealed.

SEC. 3. Section 13660 is added to the Business and Professions Code, to read:

13660. (a) Every person, firm, partnership, association, trustee, or corporation that operates a service station shall provide, upon request, refueling service to a disabled driver of a vehicle that displays a disabled person's plate or placard, or a disabled veteran's plate, issued by the Department of Motor Vehicles. The price

charged for the motor vehicle fuel shall be no greater than that which the station otherwise would charge the public generally to purchase motor vehicle fuel without refueling service.

(b) Any person or entity specified in subdivision (a) that operates a service station shall be exempt from this section during hours when:

(1) Only one employee is on duty.

(2) Only two employees are on duty, one of whom is assigned exclusively to the preparation of food.

As used in this subdivision, the term "employee" does not include a person employed by an unrelated business that is not owned or operated by the entity offering motor vehicle fuel for sale to the general public.

(c) (1) Every person, firm, partnership, association, trustee, or corporation required to provide refueling service for persons with disabilities pursuant to this section shall post the following notice in a manner and single location that is conspicuous to a driver seeking refueling service:

"Service to Disabled Persons

Disabled individuals properly displaying a disabled person's plate or placard, or a disabled person's plate, issued by the Department of Motor Vehicles, are entitled to request and receive refueling service at this service station for which they may not be charged more than the self-service price. For information regarding enforcement of laws providing for access to refueling services for persons with disabilities, you may call the California Assistive Technology System at (800) 390-2699."

(2) If refueling service is limited to certain hours pursuant to an exemption set forth in subdivision (b), the notice required by paragraph (1) shall also specify the hours during which refueling service for persons with disabilities is available.

(3) Every person, firm, partnership, association, trustee, or corporation that, consistent with subdivision (b), does not provide refueling service for persons with disabilities during any hours of operation shall post the following notice in a manner and single location that is conspicuous to a driver seeking refueling service:

"No Service for Disabled Persons

This service station does not provide refueling service for disabled individuals. For information regarding enforcement of laws providing for access to refueling services for persons with disabilities, you may call the California Assistive Technology System at (800) 390-2699."

(d) During the county sealer's normal petroleum product inspection of a service station, the sealer shall verify that a sign has been posted in accordance with subdivision (c). If a sign has not been

posted, the sealer shall issue a notice of violation to the owner or agent. The sealer shall be reimbursed, as prescribed by the department, from funds provided under Chapter 14. If substantial, repeated violations of subdivision (c) are noted at the same service station, the sealer shall refer the matter to the appropriate local law enforcement agency.

(e) The local law enforcement agency shall, upon the verified complaint of any person or public agency, investigate the actions of any person, firm, partnership, association, trustee, or corporation alleged to have violated this section. If the local law enforcement agency determines that there has been a denial of service in violation of this section, or a substantial or repeated failure to comply with subdivision (c), the agency shall levy the fine prescribed in subdivision (f).

(f) Any person who, as a responsible managing individual setting service policy of a service station, or as an employee acting independently against the set service policy, acts in violation of this section is guilty of an infraction punishable by a fine of one hundred dollars ($100) for the first offense, two hundred dollars ($200) for the second offense, and five hundred dollars ($500) for each subsequent offense.

(g) In addition to those matters referred pursuant to subdivision (e), the city attorney, the district attorney, or the Attorney General, upon his or her own motion, may investigate and prosecute alleged violations of this section. Any person or public agency may also file a verified complaint alleging violation of this section with the city attorney, district attorney, or Attorney General.

(h) Enforcement of this section may be initiated by any intended beneficiary of the provisions of this section, his or her representatives, or any public agency that exercises oversight over the service station, and the action shall be governed by Section 1021.5 of the Code of Civil Procedure.

(i) An annual notice setting forth the provisions of this section shall be provided by the Board of Equalization to every person, firm, partnership, association, trustee, or corporation that operates a service station.

(j) A notice setting forth the provisions of this section shall be printed on each disabled person's placard issued by the Department of Motor Vehicles on and after January 1, 1999. A notice setting forth the provisions of this section shall be provided to each person issued a disabled person's or disabled veteran's plate on and after January 1, 1998.

(k) For the purposes of this action "refueling service" means the service of pumping motor vehicle fuel into the fuel tank of a motor vehicle.

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.

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## CHAPTER 837

An act to add Sections 66451.22 and 66451.23 to the Government Code, relating to land use.

[Approved by Governor October 9, 1997. Filed with Secretary of State October 10, 1997.]

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

SECTION 1. Section 66451.22 is added to the Government Code, to read:

66451.22. (a) The Legislature hereby finds and declares that:

(1) The agricultural area of Napa County has become extremely important over the last 25 years as a premier winegrape growing region of worldwide importance and should thereby be protected from parcelization.

(2) The county has determined that because of the land's extraordinary agricultural value as a winegrape production area and the fact that the county's tourism industry entrusts its significant economic interests to its agricultural and open-space lands, the highest and best use for the agricultural land in the Napa Valley is for agricultural production.

(3) The full potential build-out of parcels not previously recognized in Napa County's agricultural preserve and watershed areas could devastate the wine industry of California and Napa County.

(4) To adequately protect the value and productivity of the county's agricultural lands, Napa County needs relief from the Subdivision Map Act's implied preemption of local ordinances that may require merger of parcels that do not meet current zoning and design and improvement standards as well as the provisions that recognize parcels created prior to, or before, the current Subdivision Map Act.

(b) Notwithstanding any other provision of law, the County of Napa may adopt ordinances to require, as a condition of the issuance of any permit or the grant of any approval necessary to develop any

real property which includes in whole or in part an undeveloped substandard parcel, that the undeveloped substandard parcel be merged into any other parcel or parcels that are contiguous to it and were held in common ownership on or after the effective date of this act, whether or not the contiguous parcels are a part of the development application, except as otherwise provided in subdivisions (d) and (e).

(c) For purposes of this section, "undeveloped substandard parcel" means a parcel or parcels that qualify as undeveloped pursuant to subdivision (a) of Section 66451.11, are located in areas designated as Agricultural Resource (AR) or Agricultural, Watershed, and Open Space (AWOS) on the General Plan Map of Napa County and are inconsistent with the parcel size established by the general plan and any applicable specific plan.

(d) Any ordinance adopted by the County of Napa pursuant to subdivision (b) shall exempt the following:

(1) Undeveloped substandard parcels for which a conditional or unconditional certificate of compliance has been issued pursuant to subdivision (a) or (b) of Section 66499.35, so long as the application for the certificate of compliance, together with the documentation required by the County of Napa on or before August 1, 1997, to commence the processing of an application, is filed on or before the effective date of this act; provided that this exemption shall not be applicable to conditional certificates of compliance, whenever issued, if the parcels involved were created on or after January 1, 1997, in a manner not in compliance with this division or local ordinances enacted pursuant thereto.

(2) Substandard parcels created by the recordation of a final or parcel map approved by the County of Napa on or after December 29, 1955.

(3) Substandard parcels lawfully created by the recordation of a record of survey prior to February 27, 1969.

(4) Notwithstanding Section 1093 of the Civil Code, property that in the most recently recorded deed, mortgage, patent, deed of trust, contract of sale, or other instrument of conveyance or security document, described by means of a consolidated legal description, whether or not such legal description is comprised of one or more previously existing legal descriptions, provided the owner of same prior to filing an application for development records a document merging any underlying parcel lines that may exist.

(e) Notwithstanding the provisions of subdivision (b), the Board of Supervisors of the County of Napa shall not require merger or condition or deny the issuance of any permit or the grant of any approval necessary to develop any real property in a manner that would constitute a taking of the landowner's property in violation of the United States and California Constitutions.

(f) Nothing contained in this section shall be construed as affecting the right of the County of Napa, pursuant to the provisions

of Article 1.5 (commencing with Section 66451.10) and Article 1.7 (commencing with Section 66451.30), to merge any parcels of land in the unincorporated area of that county, including, but not limited to, any parcels eligible for the exemption as described in subdivision (d) of Section 66451.22.

SEC. 2. Section 66451.23 is added to the Government Code, to read:

66451.23. Prior to adopting any ordinance authorized by Section 66451.22, the legislative body of the County of Napa shall conduct at least one public meeting at which local officials shall allow public testimony regarding the proposed ordinance in addition to the noticed public hearing at which the legislative body proposes to enact the ordinance.

SEC. 3. The Legislature finds and declares that, because of the unique circumstances applicable only to the County of Napa, as are more fully set forth in subdivision (a) of Section 66451.22, 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.

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## CHAPTER 838

An act to amend Sections 22509, 22801, and 22803 of, and to add Section 22508.5 to, the Education Code, and to add Section 20309 to the Government Code, relating to community colleges.

[Approved by Governor October 9, 1997. Filed with Secretary of State October 10, 1997.]

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

SECTION 1. Section 22508.5 is added to the Education Code, to read:

22508.5. (a) Any person who is a member of the State Teachers' Retirement System employed by a community college district who subsequently is employed by the Board of Governors of the California Community Colleges to perform duties that require membership in a different public retirement system, shall be excluded from membership in that different system if he or she elects, in writing, and files that election in the office of the State Teachers' Retirement System within 60 days after the person's entry into the new position, to continue as a member of the State Teachers' Retirement System. Only a person who has achieved plan vesting is eligible to elect to continue as a member of the State Teachers' Retirement System.

(b) A member of the Public Employees' Retirement System who is employed by the Board of Governors of the California Community Colleges who subsequently is employed by a community college

district to perform creditable service subject to coverage by this plan, may elect to have that service subject to coverage by the Public Employees' Retirement System and excluded from coverage by this plan pursuant to Section 20309 of the Government Code.

(c) This section shall apply to changes in employment effective on or after January 1, 1998.

SEC. 2. Section 22509 of the Education Code is amended to read:

22509. (a) Within 10 working days of the date of hire of an employee who has the right to make an election pursuant to Section 22508 or 22508.5, the employer shall inform the employee of the right to make an election and shall make available to the employee written information provided by each retirement system concerning the benefits provided under that retirement system to assist the employee in making an election.

(b) Any election made pursuant to subdivision (a) of Section 22508 or subdivision (a) of Section 22508.5 shall be filed with the office of the State Teachers' Retirement System and a copy of the election shall be filed with the other public retirement system. Any election made pursuant to subdivision (b) of Section 22508 or subdivision (b) of Section 22508.5 shall be filed with the office of the Public Employees' Retirement System and a copy of the election shall be filed with the office of this system.

(c) Any election made pursuant to Section 22508 or Section 22508.5 shall become effective as of the first day of employment in the position that qualified the employee to make an election.

SEC. 3. Section 22801 of the Education Code is amended to read:

22801. (a) A member who elects to receive additional service credit as provided in this chapter shall pay, prior to retirement, all contributions with respect to that service at the contribution rate for additional service credit, adopted by the board as a plan amendment, in effect at the time of election.

(b) If the member is employed to perform creditable service subject to coverage by the plan at the time of the election, the contributions shall be based upon the compensation earnable in the current school year or either of the two immediately preceding school years, whichever is highest.

(c) If the member is not employed to perform creditable service subject to coverage by the plan at the time of the election, the contributions shall be based upon the compensation earnable in the last school year of credited service or either of the two immediately preceding school years, whichever is highest.

(d) The employer may pay the amount required as employer contributions for additional service credited under paragraphs (2), (6), (7), (8), and (9) of subdivision (a) of Section 22803.

(e) The Public Employees' Retirement System shall transfer the actuarial present value of the assets of a person who makes an election pursuant to paragraph (10) of subdivision (a) of Section 22803.

(f) Regular interest shall be charged on all contributions from the end of the school year on which the contributions were based to the date of payment.

(g) Regular interest shall be charged on the monthly unpaid balance if the member pays in installments.

SEC. 4. Section 22803 of the Education Code is amended to read:

22803. (a) A member may elect to receive credit for any of the following:

(1) Service performed in a teaching position in a publicly supported and administered university or college in this state.

(2) Service performed in a certificated teaching position in a child care center operated by a county superintendent of schools or a school district in this state.

(3) Service performed in a teaching position in the California School for the Deaf or the California School for the Blind, or in special classes maintained by the public schools of this state for the instruction of the deaf, the hard of hearing, the blind, or the semisighted.

(4) Service performed in a certificated teaching position in a federally supported and administered Indian school in this state.

(5) Time served, not to exceed two years, in a certificated teaching position in a job corps center administered by the United States government in this state if the member was employed to perform creditable service subject to coverage by the plan within one year prior to entering the service and returned to employment to perform creditable service subject to coverage by the plan within six months following the date of termination of service in the job corps.

(6) Time spent on a sabbatical leave after July 1, 1956.

(7) Time spent on an approved leave to participate in any program under the federal Mutual Educational and Cultural Exchange Program.

(8) Time spent on an approved maternity or paternity leave of two years or less in duration, regardless of whether or not the leave was taken before or after the addition of this subdivision.

(9) Time spent on an approved leave, up to four months in any 12-month period, for family care or medical leave purposes, as defined by Section 12945.2 of the Government Code, as it read on the date leave was granted, excluding maternity and paternity leave.

(10) Time spent employed by the Board of Governors of the California Community Colleges in a position subject to coverage by the Public Employees' Retirement System between July 1, 1991, and December 31, 1997, provided the member has elected to return to coverage under the State Teachers' Retirement System pursuant to Section 20309 of the Government Code.

(b) In no event shall the member receive credit for service or time described in paragraphs (1) to (10), inclusive, of subdivision (a) if the member has received or is eligible to receive credit for the same

service or time in the Cash Balance Plan under Part 14 (commencing with Section 26000) or another retirement system.

SEC. 5. Section 20309 is added to the Government Code, to read:

20309. (a) A member of the Public Employees' Retirement System who is employed by the Board of Governors of the California Community Colleges and who subsequently is employed by a community college district to perform service subject to coverage by the State Teachers' Retirement System, may elect to retain coverage by the Public Employees' Retirement System for that service. An election to retain coverage under the Public Employees' Retirement System shall be submitted in writing by the member to the Public Employees' Retirement System on a form prescribed by the system, and a copy of the election shall be submitted to the State Teachers' Retirement System, within 60 days of the date the member's change in employment is effective.

(b) (1) A member who had been a member of the State Teachers' Retirement System and who changed employment and became a member of the Public Employees' Retirement System on or after July 1, 1991, but before January 1, 1998, may elect to return to coverage under the State Teachers' Retirement System if an election to do so is made in writing to each system on or before March 1, 1998. Members who elect to transfer to the State Teachers' Retirement System shall pay, prior to retirement, all contributions with respect to service in the Public Employees' Retirement System at the contribution rate for additional service credit in effect at the time of the transfer to the State Teachers' Retirement System.

(2) The Public Employees' Retirement System shall transfer the actuarial present value of the assets of a person who makes an election pursuant to this subdivision to the State Teachers' Retirement System.

(3) The Public Employees' Retirement System is not required to identify and notify members who may be eligible for the election allowed by this section.

(c) Subdivision (a) shall apply to changes in employment effective on or after January 1, 1998.

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## CHAPTER 839

An act to add Part 4.5 (commencing with Section 124960) to Division 106 of the Health and Safety Code, relating to health.

[Approved by Governor October 9, 1997. Filed with Secretary of State October 10, 1997.]

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

SECTION 1. Part 4.5 (commencing with Section 124960) is added to Division 106 of the Health and Safety Code, to read:

PART 4.5. PAIN PATIENT'S BILL OF RIGHTS

124960. The Legislature finds and declares all of the following:

(a) The state has a right and duty to control the illegal use of opiate drugs.

(b) Inadequate treatment of acute and chronic pain originating from cancer or noncancerous conditions is a significant health problem.

(c) For some patients, pain management is the single most important treatment a physician can provide.

(d) A patient suffering from severe chronic intractable pain should have access to proper treatment of his or her pain.

(e) Due to the complexity of their problems, many patients suffering from severe chronic intractable pain may require referral to a physician with expertise in the treatment of severe chronic intractable pain. In some cases, severe chronic intractable pain is best treated by a team of clinicians in order to address the associated physical, psychological, social, and vocational issues.

(f) In the hands of knowledgeable, ethical, and experienced pain management practitioners, opiates administered for severe acute and severe chronic intractable pain can be safe.

(g) Opiates can be an accepted treatment for patients in severe chronic intractable pain who have not obtained relief from any other means of treatment.

(h) A patient suffering from severe chronic intractable pain has the option to request or reject the use of any or all modalities to relieve his or her severe chronic intractable pain.

(i) A physician treating a patient who suffers from severe chronic intractable pain may prescribe a dosage deemed medically necessary to relieve severe chronic intractable pain as long as the prescribing is in conformance with the provisions of the California Intractable Pain Treatment Act, Section 2241.5 of the Business and Professions Code.

(j) A patient who suffers from severe chronic intractable pain has the option to choose opiate medication for the treatment of the severe chronic intractable pain as long as the prescribing is in conformance with the provisions of the California Intractable Pain Treatment Act, Section 2241.5 of the Business and Professions Code.

(k) The patient's physician may refuse to prescribe opiate medication for a patient who requests the treatment for severe chronic intractable pain. However, that physician shall inform the patient that there are physicians who specialize in the treatment of

severe chronic intractable pain with methods that include the use of opiates.

124961. Nothing in this section shall be construed to alter any of the provisions set forth in the California Intractable Pain Treatment Act, Section 2241.5 of the Business and Professions Code. This section shall be known as the Pain Patient's Bill of Rights.

(a) A patient suffering from severe chronic intractable pain has the option to request or reject the use of any or all modalities in order to relieve his or her severe chronic intractable pain.

(b) A patient who suffers from severe chronic intractable pain has the option to choose opiate medications to relieve severe chronic intractable pain without first having to submit to an invasive medical procedure, which is defined as surgery, destruction of a nerve or other body tissue by manipulation, or the implantation of a drug delivery system or device, as long as the prescribing physician acts in conformance with the provisions of the California Intractable Pain Treatment Act, Section 2241.5 of the Business and Professions Code.

(c) The patient's physician may refuse to prescribe opiate medication for the patient who requests a treatment for severe chronic intractable pain. However, that physician shall inform the patient that there are physicians who specialize in the treatment of severe chronic intractable pain with methods that include the use of opiates.

(d) A physician who uses opiate therapy to relieve severe chronic intractable pain may prescribe a dosage deemed medically necessary to relieve severe chronic intractable pain, as long as that prescribing is in conformance with the California Intractable Pain Treatment Act, Section 2241.5 of the Business and Professions Code.

(e) A patient may voluntarily request that his or her physician provide an identifying notice of the prescription for purposes of emergency treatment or law enforcement identification.

(f) Nothing in this section shall do either of the following:

(1) Limit any reporting or disciplinary provisions applicable to licensed physicians and surgeons who violate prescribing practices or other provisions set forth in the Medical Practice Act, Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code, or the regulations adopted thereunder.

(2) Limit the applicability of any federal statute or federal regulation or any of the other statutes or regulations of this state that regulate dangerous drugs or controlled substances.

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## CHAPTER 840

An act to add Section 71051 to the Education Code, relating to postsecondary education.

[Approved by Governor October 9, 1997. Filed with
Secretary of State October 10, 1997.]

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

SECTION 1. The Legislature hereby declares all of the following:

(a) It is the intent of the Legislature that public programs of higher education be made available to qualified persons throughout this state, including areas of substantial existing or projected populations that are underserved by any campus of the California State University or the California Community Colleges.

(b) The California Postsecondary Education Commission has evaluated the need for higher education facilities to accommodate a projected increase in student enrollment of over 450,000 additional students by the year 2005, and has concluded that as much as one billion dollars ($1,000,000,000) annually is required to respond to that need.

(c) In certain areas of the state, significantly underserved populations or projected population increases will require the California State University and the California Community Colleges, in collaboration with the private sector, to find ways to combine resources to expand existing learning centers and programs or to establish new or additional learning centers to provide access to higher education.

(d) The approval of Proposition 203 by the voters in March 1996, provided a source of capital outlay funds to public higher education institutions for fiscal years 1996–97 and 1997–98. There are no identified sources of funds, however, for future years to expand existing learning centers and programs, to complete projects, or to initiate new learning centers.

(e) In order to maintain the vigor and responsiveness of California in a global economy, Californians must be trained in the necessary skills and competencies that respond to new and emerging industries such as digital animation, biotechnology, advanced computer design, emerging agricultural and environmental technologies, and other cutting-edge markets.

(f) The development of alternative and innovative methods to fund additional learning centers and programs is necessary in order to respond to emerging learning and skill requirements of individuals in high growth underserved areas of the state.

SEC. 2. Section 71051 is added to the Education Code, to read:

71051. (a) The board of governors shall develop a process for the approval and funding of new collaborative facilities projects that are proposed by community college districts.

(b) Notwithstanding Section 7550.5 of the Government Code, the board of governors shall report on the development of its process for funding collaborative community college facilities projects to the Joint Legislative Budget Committee and the California

Postsecondary Education Commission no later than September 15, 1998, and shall include in that report any proposed legislation necessary to implement subdivision (a). The board of governors shall not implement subdivision (a) without statutory authorization.

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## CHAPTER 841

An act to add Chapter 9 (commencing with Section 540) to Division 1 of the Water Code, and to amend Sections 15.1 and 24 of the Castaic Lake Water Agency Law (Chapter 28 of the Statutes of 1962, First Extraordinary Session), relating to water.

[Approved by Governor October 9, 1997. Filed with Secretary of State October 10, 1997.]

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

SECTION 1. Chapter 9 (commencing with Section 540) is added to Division 1 of the Water Code, to read:

### CHAPTER 9. WATER DISTRICTS

540. Notwithstanding any other provision of law, a water district, as defined in Section 20200, may serve as an aggregator to facilitate direct transactions within the boundaries of the district in accordance with Chapter 2.3 (commencing with Section 330) of Part 1 of Division 1 of the Public Utilities Code and charge a fee that is equal to the district's cost for providing that service.

SEC. 2. Section 15.1 of the Castaic Lake Water Agency Law (Chapter 28 of the Statutes of 1962, First Extraordinary Session) is amended to read:

Sec. 15.1. In addition to the other powers set forth in this act, the agency may:

(a) Acquire water and water rights, including, but not limited to, water from the State of California under the State Water Resources Development System.

(b) Develop, store, treat, distribute, and reclaim the water.

(c) Provide, sell, and deliver water at wholesale only for municipal, industrial, domestic, and other purposes.

(d) Serve as an aggregator to facilitate direct transactions within the boundaries of the agency in accordance with Chapter 2.3 (commencing with Section 330) of Part 1 of Division 1 of the Public Utilities Code and charge a fee that is equal to the agency's costs for providing that service.

SEC. 3. Section 24 of the Castaic Lake Water Agency Law (Chapter 28 of the Statutes of 1962, First Extraordinary Session) is amended to read:

Sec. 24. (a) The board of directors, so far as practicable, shall fix a rate or rates for water in the agency and in each improvement district therein that will result in revenues that will pay the operating expenses of the agency, and the improvement district, provide for the payment of the cost of water received by the agency under the State Water Plan, provide for repairs and depreciation of works, provide a reasonable surplus for improvements, extensions, and enlargements, pay the interest on any bonded debt, and provide a sinking or other fund for the payment of the principal of that bonded debt as it may become due. The rates for water in each improvement district may vary from the rates of the agency and from other improvement districts therein.

(b) The board of directors may increase the rate or rates for water only if the board determines, by resolution and on the basis of substantial evidence, that the additional revenue generated by the rate increase will not be used to subsidize losses resulting from the exercise of the agency's authority pursuant to subdivision (d) of Section 15.1.

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 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.

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## CHAPTER 842

An act to amend Sections 11165.12, 11166.9, 11167.5, 11169, 11170, and 11170.5 of the Penal Code, relating to children.

[Approved by Governor October 9, 1997. Filed with Secretary of State October 10, 1997.]

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

SECTION 1. This act shall be known and may be cited as Lance's Law Child Safety Reform Act of 1997.

SEC. 2. Section 11165.12 of the Penal Code is amended to read:

11165.12. As used in this article, the following definitions shall control:

(a) "Unfounded report" means a report which is determined by a child protective agency investigator to be false, to be inherently

improbable, to involve an accidental injury, or not to constitute child abuse, as defined in Section 11165.6.

(b) "Substantiated report" means a report which is determined by a child protective agency investigator, based upon some credible evidence, to constitute child abuse or neglect, as defined in Section 11165.6.

(c) "Inconclusive report" means a report which is determined by a child protective agency investigator not to be unfounded, but in which the findings are inconclusive and there is insufficient evidence to determine whether child abuse or neglect, as defined in Section 11165.6, has occurred.

SEC. 3. Section 11166.9 of the Penal Code is amended to read:

11166.9. (a) (1) The purpose of this section shall be to coordinate and integrate state and local efforts to address fatal child abuse and neglect, and to create a body of information to prevent child deaths.

(2) It is the intent of the Legislature that the California State Child Death Review Council, the Department of Justice, the State Department of Social Services, the State Department of Health Services, and state and local child death review teams shall share data and other information necessary to reconcile and integrate the Department of Justice Child Abuse Central Index and Supplemental Homicide File and the State Department of Health Services Vital Statistics as those documents relate to child fatality cases.

(b) (1) The Department of Justice is hereby authorized to carry out the purpose of this section with the cooperation of the State Department of Social Services, the State Department of Health Services, the California Coroner's Association, the County Welfare Directors Association, the California Consortium to Prevent Child Abuse, and the California Homicide Investigators Association. These entities working cooperatively together for the purposes of this section shall be known as the California State Child Death Review Council, to be administered by the Department of Justice. It shall be the duty of the California State Child Death Review Council to oversee the statewide coordination and integration of state and local efforts to address fatal child abuse and neglect, and to create a body of information to prevent child deaths.

(2) The Department of Justice, after consultation with the agencies and organizations in paragraph (1), may consult with other representatives of other agencies and private organizations, to help accomplish the purpose of this section.

(c) Meetings of the agencies and organizations involved shall be convened by a representative of the Department of Justice. All meetings convened between the Department of Justice and any organizations required to carry out the purpose of this section shall take place in this state, not to exceed four meetings per calendar year.

(d) To accomplish the purpose of this section, the Department of Justice and agencies and organizations involved may engage in the following activities:

(1) Collect, analyze, and interpret state and local data on child death in an annual report to be submitted to local child death review teams with copies to the Governor and the Legislature, no later than July 1 each year. The report shall contain, but not be limited to, information provided by state agencies and the county child death review teams for the preceding year.

(2) Develop a state and local data base on child death.

(A) The state data may include the Department of Justice Child Abuse Index and Supplemental Homicide File, the State Department of Health Services Vital Statistics, and the State Department of Social Services Foster Care Information System.

(B) The Department of Justice, in consultation with the agencies and organizations in paragraph (1) of subdivision (b), may develop a model minimal local data set and request data from local teams for inclusion in the annual report.

(3) Distribute a copy of the report to public officials in the state who deal with child abuse issues and to those agencies responsible for child death investigation in each county.

(4) Coordinate statewide and local training for county death review teams and the members of the teams, including, but not limited to, training in the application of the Interagency Child Death Investigation Protocols and procedures to identify child deaths associated with abuse established under Sections 11166.7 and 11166.8.

(e) The Department of Justice may direct the creation of a statewide child death review team directory, which shall contain the names of the members of the agencies and private organizations participating under this section, and the members of local child death review teams and local liaisons to those teams. The Department of Justice may maintain and update the directory annually.

(f) The agencies or private organizations participating under this section shall participate without reimbursement from the state. Costs incurred by participants for travel or per diem shall be borne by the participant agency or organization. The participants shall be responsible for collecting and compiling information to be included in the annual report. The Department of Justice shall be responsible for printing and distributing the annual report using available funds and existing resources.

SEC. 4. 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 all hospital scan teams.

(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.

(10) Out-of-state law enforcement agencies conducting an investigation of child abuse only when an agency makes the request for reports of suspected child abuse in writing and on official letterhead, identifying the suspected abuser or victim by name. The request shall be signed by the department supervisor of the requesting law enforcement agency. The written requests shall cite the out-of-state statute or interstate compact provision that requires that the information contained within these reports shall be disclosed only to law enforcement, prosecutorial entities, or multidisciplinary investigative teams, and shall cite the criminal penalties for unlawful disclosure provided by the requesting state or the applicable interstate compact provision. In the absence of a specific out-of-state

statute or interstate compact provision that requires that the information contained within these reports shall be disclosed only to law enforcement, prosecutorial entities, or multidisciplinary investigative teams, and criminal penalties equivalent to the penalties in California for unlawful disclosure, access shall be denied.

(11) Persons who have verified with the Department of Justice that they are listed in the Child Abuse Central Index as provided by subdivision (d) of Section 11170. Disclosure under this section shall be subject to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code). Nothing in this section shall preclude a submitting agency prior to disclosure from redacting the name, address, and telephone number of a witness, person who reports under this article, or victim to maintain confidentiality as required by law.

(12) Each county child death review team's chairperson, or the chairperson's designee, to whom disclosure of information is permitted under this article, relating to the death of one or more children and any prior child abuse investigation reports maintained involving the same victim, siblings, or suspects. Local child death review teams may share any relevant information regarding case reviews involving child death with other child death review teams.

(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 123600 and 123605 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.

SEC. 4.5. 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 all hospital scan teams.

(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.

(10) Personnel from a child protective agency responsible for making a placement of a child pursuant to Section 361.3 of, and Article 7 (commencing with Section 305) of Chapter 2 of Part 1 of Division 2 of, the Welfare and Institutions Code.

(11) Persons who have been identified by the Department of Justice as listed in the Child Abuse Central Index pursuant to subdivision (c) of Section 11170. Nothing in this paragraph shall preclude a submitting agency prior to disclosure from redacting the name, address, and telephone number of a witness, person who reports under this article, or victim in order to maintain confidentiality as required by law.

(12) Out-of-state law enforcement agencies conducting an investigation of child abuse only when an agency makes the request for reports of suspected child abuse in writing and on official

letterhead, identifying the suspected abuser or victim by name. The request shall be signed by the department supervisor of the requesting law enforcement agency. The written requests shall cite the out-of-state statute or interstate compact provision that requires that the information contained within these reports shall be disclosed only to law enforcement, prosecutorial entities, or multidisciplinary investigative teams, and shall cite the criminal penalties for unlawful disclosure provided by the requesting state or the applicable interstate compact provision. In the absence of a specific out-of-state statute or interstate compact provision that requires that the information contained within these reports shall be disclosed only to law enforcement, prosecutorial entities, or multidisciplinary investigative teams, and criminal penalties equivalent to the penalties in California for unlawful disclosure, access shall be denied.

(13) Persons who have verified with the Department of Justice that they are listed in the Child Abuse Central Index as provided by subdivision (e) of Section 11170. Disclosure under this section shall be subject to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code). Nothing in this section shall preclude a submitting agency prior to disclosure from redacting the name, address, and telephone number of a witness, person who reports under this article, or victim to maintain confidentiality as required by law.

(14) Each county child death review team's chairperson, or the chairperson's designee, to whom disclosure of information is permitted under this article, relating to the death of one or more children and any prior child abuse investigation reports maintained involving the same victim, siblings, or suspects. Local child death review teams may share any relevant information regarding case reviews involving child death with other child death review teams.

(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 123600 and 123605 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.

SEC. 5. Section 11169 of the Penal Code is amended to read:

11169. (a) A child protective agency shall forward to the Department of Justice a report in writing of every case it investigates of known or suspected child abuse which is determined not to be unfounded, other than cases coming within subdivision (b) of Section 11165.2. A child protective agency shall not forward a report to the Department of Justice unless it has conducted an active investigation and determined that the report is not unfounded, as defined in Section 11165.12. If a report has previously been filed which subsequently proves to be unfounded, the Department of Justice shall be notified in writing of that fact and shall not retain the report. The report required by this section shall be in a form approved by the Department of Justice. A child protective agency receiving a written report from another child protective agency shall not send that report to the Department of Justice.

(b) At the time a child protective agency forwards a report in writing to the Department of Justice pursuant to subdivision (a), the agency shall also notify in writing the known or suspected child abuser that he or she has been reported to the Child Abuse Central Index. The notice required by this section shall be in a form approved by the Department of Justice. The requirements of this subdivision shall apply with respect to reports forwarded to the department on or after the date on which this subdivision becomes operative.

(c) Child protective agencies shall retain child abuse investigative reports that result in a report filed with the Department of Justice pursuant to subdivision (a) for the same period of time that the information is required to be maintained on the Child Abuse Central Index pursuant to this section. Nothing in this section precludes a child protective agency from retaining the reports for a longer period of time if required by law.

(d) The immunity provisions of Section 11172 shall not apply to the submission of a report by a child protective agency pursuant to this section. However, nothing in this section shall be construed to alter or diminish any other immunity provisions of state or federal law.

SEC. 6. Section 11170 of the Penal Code is amended to read:

11170. (a) (1) The Department of Justice shall maintain an index of all reports of child abuse submitted pursuant to Section 11169. The index shall be continually updated by the department and shall not contain any reports that are determined to be unfounded. The department may adopt rules governing recordkeeping and reporting pursuant to this article.

(2) The department shall act only as a repository of reports of suspected child abuse to be maintained in the Child Abuse Central Index pursuant to paragraph (1). The submitting agencies are responsible for the accuracy, completeness, and retention of the reports described in this section. The department shall be responsible

for ensuring that the Child Abuse Central Index accurately reflects the report it receives from the submitting agency.

(3) Information from an inconclusive or unsubstantiated report filed pursuant to subdivision (a) of Section 11169 shall be deleted from the Child Abuse Central Index after 10 years if no subsequent report concerning the same suspected child abuser is received within that time period. If a subsequent report is received within that 10-year period, information from any prior report, as well as any subsequently filed report, shall be maintained on the Child Abuse Central Index for a period of 10 years from the time the most recent report is received by the department.

(b) (1) The Department of Justice shall immediately notify a child protective agency that submits a report pursuant to Section 11169, or a district attorney who requests notification, of any information maintained pursuant to subdivision (a) that is relevant to the known or suspected instance of child abuse reported by the agency. A child protective agency shall make that information available to the reporting medical practitioner, child custodian, guardian ad litem appointed under Section 326, or counsel appointed under Section 317 or 318 of the Welfare and Institutions Code, or the appropriate licensing agency, if he or she is treating or investigating a case of known or suspected child abuse.

(2) When a report is made pursuant to subdivision (a) or (c) of Section 11166, the investigating agency, upon completion of the investigation or after there has been a final disposition in the matter, shall inform the person required to report of the results of the investigation and of any action the agency is taking with regard to the child or family.

(3) The department shall make available to the State Department of Social Services or to any county licensing agency which has contracted with the state for the performance of licensing duties information regarding a known or suspected child abuser maintained pursuant to this section and subdivision (a) of Section 11169 concerning any person who is an applicant for licensure or any adult who resides or is employed in the home of an applicant for licensure or who is an applicant for employment in a position having supervisorial or disciplinary power over a child or children, or who will provide 24-hour care for a child or children in a residential home or facility, pursuant to Section 1522.1 or 1596.877 of the Health and Safety Code, or Section 8714, 8802, 8912, or 9000 of the Family Code.

(4) For purposes of child death review, the Department of Justice shall make available to the chairperson, or the chairperson's designee, for each county child death review team, or the State Child Death Review Council, information maintained in the Child Abuse Central Index pursuant to subdivision (a) of Section 11170 relating to the death of one or more children and any prior child abuse investigation reports maintained involving the same victim, siblings, or suspects. Local child death review teams may share any relevant

information regarding case reviews involving child death with other child death review teams.

(5) The department shall make available to child protective agencies, or court investigators acting pursuant to Section 1513 of the Probate Code, responsible for placing children or assessing the possible placement of children pursuant to Article 6 (commencing with Section 300), Article 7 (commencing with Section 305), Article 10 (commencing with Section 360), or Article 14 (commencing with Section 601) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, Article 2 (commencing with Section 1510) or Article 3 (commencing with Section 1540) of Chapter 1 of Part 2 of Division 4 of the Probate Code, information regarding a known or suspected child abuser contained in the index concerning any adult residing in the home where the child may be placed, when this information is requested for purposes of ensuring that the placement is in the best interests of the child. Upon receipt of relevant information concerning child abuse investigation reports contained in the index from the Department of Justice pursuant to this subdivision, the child protective agency or court investigator shall notify, in writing, the person listed in the Child Abuse Central Index that he or she is in the index. The notification shall include the name of the reporting agency and the date of the report.

(6) (A) Persons or agencies, as specified in subdivision (b), if investigating a case of known or suspected child abuse, or the State Department of Social Services, or any county licensing agency pursuant to paragraph (3), or a child protective agency or court investigator responsible for placing children or assessing the possible placement of children pursuant to paragraph (5), to whom disclosure of any information maintained pursuant to subdivision (a) is authorized, are responsible for obtaining the original investigative report from the reporting agency, and for drawing independent conclusions regarding the quality of the evidence disclosed, and its sufficiency for making decisions regarding investigation, prosecution, licensing, or placement of a child.

(B) If Child Abuse Central Index information is requested by a child protective agency for the temporary placement of a child in an emergency situation pursuant to Article 7 (commencing with Section 305) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, the department is exempt from the requirements of Section 1798.18 of the Civil Code if compliance would cause a delay in providing an expedited response to the child protective agency's inquiry and if further delay in placement may be detrimental to the child.

(7) (A) Whenever information contained in the Department of Justice files is furnished as the result of an application for employment or licensing pursuant to paragraph (3), the Department of Justice may charge the person or entity making the request a fee. The fee shall not exceed the reasonable costs to the department of

providing the information. The only increase shall be at a rate not to exceed the legislatively approved cost-of-living adjustment for the department. In no case shall the fee exceed fifteen dollars ($15).

(B) All moneys received by the department pursuant to this paragraph shall be deposited in a special account in the General Fund which is hereby created and named the Department of Justice Sexual Habitual Offender Fund. The funds shall be available, upon appropriation by the Legislature, for expenditure by the department to offset the costs incurred pursuant to Chapter 9.5 (commencing with Section 13885) and Chapter 10 (commencing with Section 13890) of Title 6 of Part 4, and Section 290.2, and for maintenance and improvements to the statewide Sexual Habitual Offender Program and the DNA offender identification file (CAL-DNA) authorized by Chapter 9.5 (commencing with Section 13885) of Title 6 of Part 4 and Section 290.2.

(c) The department shall make available any information maintained pursuant to Section 11169 to out-of-state law enforcement agencies conducting investigations of known or suspected child abuse only when an agency makes the request for information in writing and on official letterhead, identifying the suspected abuser or victim by name. The request shall be signed by the department supervisor of the requesting law enforcement agency. The written requests shall cite the out-of-state statute or interstate compact provision that requires that the information contained within these reports shall be disclosed only to law enforcement, prosecutorial entities, or multidisciplinary investigative teams, and shall cite the criminal penalties for unlawful disclosure of any confidential information provided by the requesting state or the applicable interstate compact provision. In the absence of a specified out-of-state statute or interstate compact provision that requires that the information contained within these reports shall be disclosed only to law enforcement, prosecutorial entities, or multidisciplinary investigative teams, and criminal penalties equivalent to the penalties in California for unlawful disclosure, access shall be denied.

(d) Any person may determine if he or she is listed in the Child Abuse Central Index by making a request in writing to the Department of Justice. The request shall be notarized and include the person's name, address, date of birth, and either a social security number or a California identification number. Upon receipt of a notarized request, the Department of Justice shall make available to the requesting person information identifying the date of the report and the submitting agency. The requesting person is responsible for obtaining the investigative report from the submitting agency pursuant to paragraph (11) of subdivision (a) of Section 11167.5.

(e) If a person is listed in the Child Abuse Central Index only as a victim of child abuse, and that person is 18 years of age or older, that person may have his or her name removed from the index by making

a written request to the Department of Justice. The request shall be notarized and include the person's name, address, social security number, and date of birth.

SEC. 6.1. Section 11170 of the Penal Code is amended to read:

11170. (a) (1) The Department of Justice shall maintain an index of all reports of child abuse submitted pursuant to Section 11169. The index shall be continually updated by the department and shall not contain any reports that are determined to be unfounded. The department may adopt rules governing recordkeeping and reporting pursuant to this article.

(2) The department shall act only as a repository of reports of suspected child abuse to be maintained in the Child Abuse Central Index pursuant to paragraph (1). The submitting agencies are responsible for the accuracy, completeness, and retention of the reports described in this section. The department shall be responsible for ensuring that the Child Abuse Central Index accurately reflects the report it receives from the submitting agency.

(3) Information from an inconclusive or unsubstantiated report filed pursuant to subdivision (a) of Section 11169 shall be deleted from the Child Abuse Central Index after 10 years if no subsequent report concerning the same suspected child abuser is received within that time period. If a subsequent report is received within that 10-year period, information from any prior report, as well as any subsequently filed report, shall be maintained on the Child Abuse Central Index for a period of 10 years from the time the most recent report is received by the department.

(b) (1) The Department of Justice shall immediately notify a child protective agency that submits a report pursuant to Section 11169, or a district attorney who requests notification, of any information maintained pursuant to subdivision (a) that is relevant to the known or suspected instance of child abuse reported by the agency. A child protective agency shall make that information available to the reporting medical practitioner, child custodian, guardian ad litem appointed under Section 326, or counsel appointed under Section 317 or 318 of the Welfare and Institutions Code, or the appropriate licensing agency, if he or she is treating or investigating a case of known or suspected child abuse.

(2) When a report is made pursuant to subdivision (a) or (c) of Section 11166, the investigating agency, upon completion of the investigation or after there has been a final disposition in the matter, shall inform the person required to report of the results of the investigation and of any action the agency is taking with regard to the child or family.

(3) The department shall make available to the State Department of Social Services or to any county licensing agency that has contracted with the state for the performance of licensing duties information regarding a known or suspected child abuser maintained pursuant to this section and subdivision (a) of Section 11169

concerning any person who is an applicant for licensure or any adult who resides or is employed in the home of an applicant for licensure or who is an applicant for employment in a position having supervisorial or disciplinary power over a child or children, or who will provide 24-hour care for a child or children in a residential home or facility, pursuant to Section 1522.1 or 1596.877 of the Health and Safety Code, or Section 8714, 8802, 8912, or 9000 of the Family Code.

(4) For purposes of child death review, the Department of Justice shall make available to the chairperson, or the chairperson's designee, for each county child death review team, or the State Child Death Review Council, information maintained in the Child Abuse Central Index pursuant to subdivision (a) of Section 11170 relating to the death of one or more children and any prior child abuse investigation reports maintained involving the same victim, siblings, or suspects. Local child death review teams may share any relevant information regarding case reviews involving child death with other child death review teams.

(5) The department shall make available to child protective agencies, or court investigators acting pursuant to Section 1513 of the Probate Code, responsible for placing children or assessing the possible placement of children pursuant to Article 6 (commencing with Section 300), Article 7 (commencing with Section 305), Article 10 (commencing with Section 360), or Article 14 (commencing with Section 601) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, Article 2 (commencing with Section 1510) or Article 3 (commencing with Section 1540) of Chapter 1 of Part 2 of Division 4 of the Probate Code, information regarding a known or suspected child abuser contained in the index concerning any adult residing in the home where the child may be placed, when this information is requested for purposes of ensuring that the placement in the best interests of the child. Upon receipt of relevant information concerning child abuse investigation reports contained in the index from the Department of Justice pursuant to this subdivision, the child protective agency or court investigator shall notify, in writing, the person listed in the Child Abuse Central Index that he or she is in the index. The notification shall include the name of the reporting agency and the date of the report.

(6) (A) Persons or agencies, as specified in subdivision (b), if investigating a case of known or suspected child abuse, or the State Department of Social Services, or any county licensing agency pursuant to paragraph (3), or a child protective agency or court investigator responsible for placing children or assessing the possible placement of children pursuant to paragraph (5), to whom disclosure of any information maintained pursuant to subdivision (a) is authorized, are responsible for obtaining the original investigative report from the reporting agency, and for drawing independent conclusions regarding the quality of the evidence disclosed, and its

sufficiency for making decisions regarding investigation, prosecution, licensing, or placement of a child.

(B) If Child Abuse Central Index information is requested by a child protective agency for the temporary placement of a child in an emergency situation pursuant to Article 7 (commencing with Section 305) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, the department is exempt from the requirements of Section 1798.18 of the Civil Code if compliance would cause a delay in providing an expedited response to the child protective agency's inquiry and if further delay in placement may be detrimental to the child.

(7) (A) Whenever information contained in the Department of Justice files is furnished as the result of an application for employment or licensing pursuant to paragraph (3), the Department of Justice may charge the person or entity making the request a fee. The fee shall not exceed the reasonable costs to the department of providing the information. The only increase shall be at a rate not to exceed the legislatively approved cost-of-living adjustment for the department. In no case shall the fee exceed fifteen dollars ($15).

(B) All moneys received by the department pursuant to this section to process trustline applications for purposes of Chapter 3.35 (commencing with Section 1596.60) of Division 2 of the Health and Safety Code shall be deposited in a special account in the General Fund that is hereby established and named the Department of Justice Child Abuse Fund. Moneys in the fund shall be available, upon appropriation by the Legislature, for expenditure by the department to offset the costs incurred to process trustline automated child abuse system checks pursuant to this section.

(C) All moneys, other than that described in subparagraph (B), received by the department pursuant to this paragraph shall be deposited in a special account in the General Fund which is hereby created and named the Department of Justice Sexual Habitual Offender Fund. The funds shall be available, upon appropriation by the Legislature, for expenditure by the department to offset the costs incurred pursuant to Chapter 9.5 (commencing with Section 13885) and Chapter 10 (commencing with Section 13890) of Title 6 of Part 4, and Section 290.2, and for maintenance and improvements to the statewide Sexual Habitual Offender Program and the DNA offender identification file (CAL-DNA) authorized by Chapter 9.5 (commencing with Section 13885) of Title 6 of Part 4 and Section 290.2.

(c) The department shall make available any information maintained pursuant to Section 11169 to out-of-state law enforcement agencies conducting investigations of known or suspected child abuse only when an agency makes the request for information in writing and on official letterhead, identifying the suspected abuser or victim by name. The request shall be signed by the department supervisor of the requesting law enforcement

agency. The written requests shall cite the out-of-state statute or interstate compact provision that requires that the information contained within these reports shall be disclosed only to law enforcement, prosecutorial entities, or multidisciplinary investigative teams, and shall cite the criminal penalties for unlawful disclosure of any confidential information provided by the requesting state or the applicable interstate compact provision. In the absence of a specified out-of-state statute or interstate compact provision that requires that the information contained within these reports shall be disclosed only to law enforcement, prosecutorial entities, or multidisciplinary investigative teams, and criminal penalties equivalent to the penalties in California for unlawful disclosure, access shall be denied.

(d) Any person may determine if he or she is listed in the Child Abuse Central Index by making a request in writing to the Department of Justice. The request shall be notarized and include the person's name, address, date of birth, and either a social security number or a California identification number. Upon receipt of a notarized request, the Department of Justice shall make available to the requesting person information identifying the date of the report and the submitting agency. The requesting person is responsible for obtaining the investigative report from the submitting agency pursuant to paragraph (11) of subdivision (a) of Section 11167.5.

(e) If a person is listed in the Child Abuse Central Index only as a victim of child abuse, and that person is 18 years of age or older, that person may have his or her name removed from the index by making a written request to the Department of Justice. The request shall be notarized and include the person's name, address, social security number, and date of birth.

SEC. 6.2. Section 11170 of the Penal Code is amended to read:

11170. (a) (1) The Department of Justice shall maintain an index of all reports of child abuse submitted pursuant to Section 11169. The index shall be continually updated by the department and shall not contain any reports that are determined to be unfounded. The department may adopt rules governing recordkeeping and reporting pursuant to this article.

(2) The department shall act only as a repository of reports of suspected child abuse to be maintained in the Child Abuse Central Index pursuant to paragraph (1). The submitting agencies are responsible for the accuracy, completeness, and retention of the reports described in this section. The department shall be responsible for ensuring that the Child Abuse Central Index accurately reflects the report it receives from the submitting agency.

(3) Information from an inconclusive or unsubstantiated report filed pursuant to subdivision (a) of Section 11169 shall be deleted from the Child Abuse Central Index after 10 years if no subsequent report concerning the same suspected child abuser is received within that time period. If a subsequent report is received within that

10-year period, information from any prior report, as well as any subsequently filed report, shall be maintained on the Child Abuse Central Index for a period of 10 years from the time the most recent report is received by the department.

(b) (1) The Department of Justice shall immediately notify a child protective agency that submits a report pursuant to Section 11169, or a district attorney who requests notification, of any information maintained pursuant to subdivision (a) that is relevant to the known or suspected instance of child abuse reported by the agency. A child protective agency shall make that information available to the reporting medical practitioner, child custodian, guardian ad litem appointed under Section 326, or counsel appointed under Section 317 or 318 of the Welfare and Institutions Code, or the appropriate licensing agency, if he or she is treating or investigating a case of known or suspected child abuse.

(2) When a report is made pursuant to subdivision (a) or (c) of Section 11166, the investigating agency, upon completion of the investigation or after there has been a final disposition in the matter, shall inform the person required to report of the results of the investigation and of any action the agency is taking with regard to the child or family.

(3) The department shall make available to the State Department of Social Services or to any county licensing agency that has contracted with the state for the performance of licensing duties information regarding a known or suspected child abuser maintained pursuant to this section and subdivision (a) of Section 11169 concerning any person who is an applicant for licensure or any adult who resides or is employed in the home of an applicant for licensure or who is an applicant for employment in a position having supervisorial or disciplinary power over a child or children, or who will provide 24-hour care for a child or children in a residential home or facility, pursuant to Section 1522.1 or 1596.877 of the Health and Safety Code, or Section 8714, 8802, 8912, or 9000 of the Family Code.

(4) For purposes of child death review, the Department of Justice shall make available to the chairperson, or the chairperson's designee, for each county child death review team, or the State Child Death Review Council, information maintained in the Child Abuse Central Index pursuant to subdivision (a) of Section 11170 relating to the death of one or more children and any prior child abuse investigation reports maintained involving the same victims, siblings, or suspects. Local child death review teams may share any relevant information regarding case reviews involving child death with other child death review teams.

(5) The department shall make available to child protective agencies, or court investigators acting pursuant to Section 1513 of the Probate Code, responsible for placing children or assessing the possible placement of children pursuant to Article 6 (commencing with Section 300), Article 7 (commencing with Section 305), Article

10 (commencing with Section 360), or Article 14 (commencing with Section 601) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, Article 2 (commencing with Section 1510) or Article 3 (commencing with Section 1540) of Chapter 1 of Part 2 of Division 4 of the Probate Code, information regarding a known or suspected child abuser contained in the index concerning any adult residing in the home where the child may be placed, when this information is requested for purposes of ensuring that the placement is in the best interests of the child. Upon receipt of relevant information concerning child abuse investigation reports contained in the index from the Department of Justice pursuant to this subdivision, the child protective agency or court investigator shall notify, in writing, the person listed in the Child Abuse Central Index that he or she is in the index. The notification shall include the name of the reporting agency and the date of the report.

(6) (A) Persons or agencies, as specified in subdivision (b), if investigating a case of known or suspected child abuse, or the State Department of Social Services or any county licensing agency pursuant to paragraph (3), or a child protective agency or court investigator responsible for placing children or assessing the possible placement of children pursuant to paragraph (5), to whom disclosure of any information maintained pursuant to subdivision (a) is authorized, are responsible for obtaining the original investigative report from the reporting agency, and for drawing independent conclusions regarding the quality of the evidence disclosed, and its sufficiency for making decisions regarding investigation, prosecution, licensing, or placement of a child.

(B) If Child Abuse Central Index information is requested by a child protective agency for the temporary placement of a child in an emergency situation pursuant to Article 7 (commencing with Section 305) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, the department is exempt from the requirements of Section 1798.18 of the Civil Code if compliance would cause a delay in providing an expedited response to the child protective agency's inquiry and if further delay in placement may be detrimental to the child.

(7) (A) Whenever information contained in the Department of Justice files is furnished as the result of an application for employment or licensing pursuant to paragraph (3), the Department of Justice may charge the person or entity making the request a fee. The fee shall not exceed the reasonable costs to the department of providing the information. The only increase shall be at a rate not to exceed the legislatively approved cost-of-living adjustment for the department. In no case shall the fee exceed fifteen dollars ($15).

(B) All moneys received by the department pursuant to this section to process trustline applications for purposes of Chapter 3.35 (commencing with Section 1596.60) of Division 2 of the Health and Safety Code shall be deposited in a special account in the General

Fund that is hereby established and named the Department of Justice Child Abuse Fund. Moneys in the fund shall be available, upon appropriation by the Legislature, for expenditure by the department to offset the costs incurred to process trustline automated child abuse system checks pursuant to this section.

(C) All moneys, other than that described in subparagraph (B), received by the department pursuant to this paragraph shall be deposited in a special account in the General Fund which is hereby created and named the Department of Justice Sexual Habitual Offender Fund. The funds shall be available, upon appropriation by the Legislature, for expenditure by the department to offset the costs incurred pursuant to Chapter 9.5 (commencing with Section 13885) and Chapter 10 (commencing with Section 13890) of Title 6 of Part 4, and Section 290.2, and for maintenance and improvements to the statewide Sexual Habitual Offender Program and the DNA offender identification file (CAL-DNA) authorized by Chapter 9.5 (commencing with Section 13885) of Title 6 of Part 4 and Section 290.2.

(c) The Department of Justice shall make available to any child protective agency responsible for placing children pursuant to Article 7 (commencing with Section 305) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, upon request, relevant information concerning child abuse reports contained in the index, when making a placement with a responsible relative pursuant to Sections 281.5, 305, and 361.3 of the Welfare and Institutions Code. Upon receipt of relevant information concerning child abuse reports contained in the index from the Department of Justice pursuant to this subdivision, the child protective agency shall also notify in writing the person listed in the Child Abuse Central Index that he or she is in the index. The notification shall include the location of the original investigative report and the submitting agency. The notification shall be submitted to the person listed at the same time that all other parties are notified of the information, and no later than the actual judicial proceeding that determines placement.

If Child Abuse Central Index information is requested by a child protective agency for the placement of a child with a responsible relative in an emergency situation pursuant to Article 7 (commencing with Section 305) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, the department is exempt from the requirements of Section 1798.18 of the Civil Code if compliance would cause a delay in providing an expedited response to the child protective agency's inquiry and if further delay in placement may be detrimental to the child.

(d) The department shall make available any information maintained pursuant to Section 11169 to out-of-state law enforcement agencies conducting investigations of known or suspected child abuse only when an agency makes the request for

information in writing and on official letterhead, identifying the suspected abuser or victim by name. The request shall be signed by the department supervisor of the requesting law enforcement agency. The written requests shall cite the out-of-state statute or interstate compact provision that requires that the information contained within these reports shall be disclosed only to law enforcement, prosecutorial entities, or multidisciplinary investigative teams, and shall cite the criminal penalties for unlawful disclosure of any confidential information provided by the requesting state or the applicable interstate compact provision. In the absence of a specified out-of-state statute or interstate compact provision that requires that the information contained within these reports shall be disclosed only to law enforcement, prosecutorial entities, or multidisciplinary investigative teams, and criminal penalties equivalent to the penalties in California for unlawful disclosure, access shall be denied.

(e) Any person may determine if he or she is listed in the Child Abuse Central Index by making a request in writing to the Department of Justice. The request shall be notarized and include the person's name, address, date of birth, and either a social security number or a California identification number. Upon receipt of a notarized request, the Department of Justice shall make available to the requesting person information identifying the date of the report and the submitting agency. The requesting person is responsible for obtaining the investigative report from the submitting agency pursuant to paragraph (13) of subdivision (a) of Section 11167.5.

(f) If a person is listed in the Child Abuse Central Index only as a victim of child abuse, and that person is 18 years of age or older, that person may have his or her name removed from the index by making a written request to the Department of Justice. The request shall be notarized and include the person's name, address, social security number, and date of birth.

SEC. 7. Section 11170.5 of the Penal Code is amended to read:

11170.5. (a) Notwithstanding paragraph (3) of subdivision (b) of Section 11170, the Department of Justice shall make available to a licensed adoption agency, as defined in Section 8530 of the Family Code, regarding a known or suspected child abuser maintained in the child abuse index, pursuant to subdivision (a) of Section 11170, concerning any person who has submitted to the agency an application for adoption.

(b) Whenever information contained in the Department of Justice files is furnished as the result of an application for adoption pursuant to subdivision (a), the Department of Justice may charge the agency making the request a fee. The fee shall not exceed the reasonable costs to the department of providing the information. The only increase shall be at a rate not to exceed the legislatively approved cost-of-living adjustment for the department. In no case shall the fee exceed fifteen dollars ($15).

All moneys received by the department pursuant to this subdivision shall be deposited in the Department of Justice Sexual Habitual Offender Fund pursuant to paragraph (5) of subdivision (b) of Section 11170.

SEC. 8. Section 4.5 of this bill incorporates amendments to Section 11167.5 of the Penal Code proposed by both this bill and AB 1065. 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 11167.5 of the Penal Code, and (3) this bill is enacted after AB 1065, in which case Section 4 of this bill shall not become operative.

SEC. 9. (a) Section 6.1 of this bill incorporates amendments to Section 11170 of the Penal Code proposed by both this bill and AB 753. 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 11170 of the Penal Code, (3) AB 1065 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 753, in which case Sections 6 and 6.2 of this bill shall not become operative.

(b) Section 6.2 of this bill incorporates amendments to Section 11170 of the Penal Code proposed by this bill, AB 753, and AB 1065. Except as otherwise provided in subdivision (c), it shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 1998, (2) each bill amends Section 11170 of the Penal Code, and (3) this bill is enacted after AB 753 and AB 1065, in which case Sections 6 and 6.1 of this bill shall not become operative.

(c) Section 6.2 of this bill also incorporates amendments to Section 11170 of the Penal Code proposed only by this bill and AB 1065 since AB 1065 incorporates the amendments to Section 11170 proposed by AB 753. Except as otherwise provided in subdivision (b), it shall only become operative if (1) this bill and AB 1065 are enacted and become effective on or before January 1, 1998, (2) each bill amends Section 11170 of the Penal Code, (3) AB 753 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 1065, in which case Sections 6 and 6.1 of this bill shall not become operative.

SEC. 10. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative

on the same date that the act takes effect pursuant to the California Constitution.

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## CHAPTER 843

An act to amend Section 8181 of, to add Sections 8179.5 and 8182.5 to, to repeal Chapter 1.8 (commencing with Section 8170) of, and to repeal Chapter 1.9 (commencing with Section 8180) of, Part 6 of Title 1 of the Education Code, to add Chapter 3.35 (commencing with Section 1596.60) to Division 2 of the Health and Safety Code, and to amend Section 11170 of the Penal Code, relating to child care, and making an appropriation therefor.

[Approved by Governor October 9, 1997. Filed with Secretary of State October 10, 1997.]

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

SECTION 1. Section 8179.5 is added to the Education Code, immediately after Section 8179, to read:

8179.5. This chapter shall remain in effect only until July 1, 1998, and as of that date is repealed, unless a later enacted statute, that is enacted before July 1, 1998, deletes or extends that date.

SEC. 2. Section 8181 of the Education Code is amended to read:

8181. (a) To the extent permitted by federal law, each child care provider, as defined by Section 8170, who is compensated, in whole or in part, with funds provided pursuant to subchapter IV (commencing with Section 601) of Chapter 7 of Title 42 of the United States Code, except a provider who is, by marriage, blood, or court decree, the grandparent, aunt, or uncle of the child in care, shall be registered pursuant to Sections 8171 and 8172 in order to be eligible to receive this compensation. Registration is required for providers who receive compensation pursuant to Subchapter IV (commencing with Section 601) of Chapter 7 of Title 42 of the United States Code only to the extent permitted by that law and the regulations adopted pursuant thereto. This section applies only to child care providers, as defined by Section 8170, who register for payment under subchapter IV (commencing with Section 601) of Chapter 7 of Title 42 of the United States Code after the implementation of the trustline registration system in those programs. A provider, as defined by Section 8170, who was exempted from trustline registration because the provider was not compensated, in whole or in part, with funds provided pursuant to Subchapter IV (commencing with Section 601) of Chapter 7 of Title 42 of the United States Code shall be registered, at no cost to the provider, pursuant to Sections 8171 and 8172 when either of the following occur:

(1) The provider begins to provide child care to an eligible family for which he or she has not provided care.

(2) The provider begins to provide child care to an eligible family subsequent to a lapse in providing care that is compensated pursuant to Subchapter IV (commencing with Section 601) of Chapter 7 of Title 42 of the United States Code.

(b) Subdivision (a) shall not be implemented unless funding for trustline registration is appropriated to the Department of Justice for this purpose in the annual Budget Act or in other legislation. To the extent permitted by federal law, the State Department of Social Services shall enter into an interagency agreement with the Department of Justice to provide federal matching funds for the trustline registration system. The Department of Justice shall enter into a contract with the California Child Care Resource and Referral Network to administer the trustline as it relates to providers who are compensated pursuant to Subchapter IV (commencing with Section 601) of Chapter 7 of Title 42 of the United States Code.

SEC. 3. Section 8182.5 is added to the Education Code, immediately after Section 8182, to read:

8182.5. This chapter shall remain in effect only until July 1, 1998, and as of that date is repealed, unless a later enacted statute, that is enacted before July 1, 1998, deletes or extends that date.

SEC. 4. Chapter 3.35 (commencing with Section 1596.60) is added to Division 2 of the Health and Safety Code, to read:

## CHAPTER 3.35. CHILD CARE PROVIDER REGISTRATION

1596.60. For the purposes of this chapter, the following definitions shall apply:

(a) "Department" means the State Department of Social Services.

(b) "Director" means the Director of Social Services.

(c) "Trustline provider," "license exempt child care provider," or "provider," for the purposes of this chapter means a person 18 years of age or older who provides child care or supervision and who is not required to be licensed pursuant to Section 1596.792.

1596.601. Any child care provider who possesses any one of the following identification cards may initiate a background examination to be a trustline provider:

(a) A valid California driver's license.

(b) A valid identification card issued by the Department of Motor Vehicles.

(c) A valid Alien Registration Card.

(d) In the case of a person living in a state other than California, a valid numbered photo identification card issued by an agency of the state other than California.

1596.603. (a) Each person initiating a background examination to be a trustline provider shall obtain one set of fingerprints from a

law enforcement agency or other local agency on a fingerprint card authorized by the Department of Justice and shall submit the fingerprints, unless exempted in subdivision (e), and a completed trustline application to the department, or the local child care resource and referral agency which will immediately forward the application package to the department. The agency taking the fingerprints shall inscribe the serial number from the identification card described in Section 1596.601 on the fingerprint cards.

(b) A law enforcement agency or other local agency authorized to take fingerprints may charge a reasonable fee to offset the costs of fingerprinting for the purposes of this chapter.

(c) Upon receipt, the department shall transmit the fingerprint card and a copy of the application to the Department of Justice. The Department of Justice shall use the fingerprints and the application to search the state criminal history information pursuant to Section 1596.871 and the automated child abuse system pursuant to subdivision (b) of Section 1596.877.

(d) A provider may request the department, through the Department of Justice, to use a second set of fingerprints to search the records of the Federal Bureau of Investigation, in addition to the searches mandated in subdivision (c).

(e) A person who is a current licensee or employee in a facility licensed by the department need not submit fingerprints to the department and may transfer their criminal record clearance pursuant to subdivision (h) of Section 1596.871. The person shall instead submit to the department, along with the person's application, a copy of the person's identification card described in Section 1596.601 and sign a declaration verifying the person's identity. A willful false declaration is a violation of this subdivision punishable in the same manner as provided under Section 1596.890.

1596.605. (a) (1) The department shall establish a trustline registry pursuant to this chapter and shall continuously update the registry information. Upon submission of the trustline application and fingerprints or other identification documents pursuant to either subdivision (a) or (e) of Section 1596.603, the department shall enter into the trustline registry the provider's name, identification card number, and an indicator that the provider has submitted an application and fingerprints or identification documentation. This provider shall be known as a "trustline applicant."

(2) A person shall not be entitled to apply to be a trustline provider and shall have his or her application returned without the right to appeal if the provider would not be eligible to obtain a child care license pursuant to Section 1596.851.

(b) (1) Before approving the person's application, the department shall check the individual criminal history pursuant to Section 1596.871 and against the child abuse index pursuant to subdivision (b) of Section 1596.877. Upon completion of the searches of the state summary criminal history information and the child abuse

index, and, if applicable, the records of the Federal Bureau of Investigation, the department shall grant the trustline application if grounds do not exist for denial pursuant to Section 1596.607 and the department shall enter that finding in the provider's record in the trustline registry and shall notify the provider of the action. This provider shall be known as a "registered trustline child care provider."

(2) The department may transfer the criminal record clearance granted to a registered trustline child care provider and hold the registered trustline child care provider's criminal record clearance in its active files pursuant to subdivision (h) of Section 1596.871.

1596.607. (a) (1) If the department finds that the trustline applicant has been convicted of a crime, other than a minor traffic violation, the department shall deny the application, unless the director grants an exemption pursuant to subdivision (f) of Section 1596.871.

(2) If the department finds that the trustline applicant has an arrest as described in subdivision (a) of Section 1596.871, the department may deny the application if the trustline applicant may pose a risk to the health and safety of any person who is or may become a client and the department complies with subdivision (e) of Section 1596.871.

(3) The department shall comply with the requirements of Section 1596.877 and may deny the application of a trustline applicant for substantiated child abuse that may pose a threat to the health and safety of any person who is or may become a client.

(4) The department may deny the application for registration of the trustline applicant if it discovers that it had previously revoked a license or certificate to be a certified family home held by the trustline applicant or excluded the trustline applicant from a licensed facility.

(5) The department may deny the application for registration of the trustline applicant if it discovers that it had previously denied the trustline applicant's application for a license from the department or certificate of approval to be a certified family home.

(b) (1) If, the department denies registration pursuant to subdivision (a), it shall advise the provider of the right to appeal. The provider shall have 15 days to appeal the denial.

(2) Upon receipt by the department of the appeal, the appeal shall be set for hearing. The hearing shall be conducted in accordance with Section 1596.887.

1596.608. (a) (1) The department may revoke a provider's trustline registration for any of the following:

(A) Procuring trustline registration by fraud or misrepresentation.

(B) Knowingly making or giving any false statement or information in conjunction with the application for issuance of trustline registration.

(C) Criminal conviction unless an exemption is granted pursuant to Section 1596.871.

(D) Incident of child abuse or neglect or other conduct that poses a threat to the health and safety of any person who is or may become a client.

(2) The hearing to revoke the trustline registration shall be conducted in accordance with Section 1596.887.

(b) The trustline provider's registration shall be considered forfeited under the following conditions:

(1) The trustline provider has had a license or certificate of approval revoked, suspended, or denied as authorized under Section 1534, 1550, 1568.082, 1569.50, or 1596.885.

(2) The trustline provider has been denied employment, residence, or presence in a facility based on action resulting from an administrative hearing pursuant to Section 1558, 1568.092, 1569.58, or 1596.8897.

(3) The trustline provider fails to maintain a current mailing address with the department.

1596.61. (a) The department may charge a fee to a trustline applicant. The department may enter into an interagency agreement for the purpose of transferring funds to offset the costs incurred by the California Child Care Resource and Referral Network to implement the trustline program pursuant to this chapter.

(b) The maximum fee shall not exceed the total actual costs of all of the following:

(1) The searches of the state summary criminal history information and the child abuse index performed by the Department of Justice. The cost to check the criminal history information shall not subsidize the cost to check the criminal history of other persons by the State Department of Social Services who are not charged a fee by the Department of Justice.

(2) The cost incurred by the Department of Justice for the searches of the records of the Federal Bureau of Investigation.

(3) The information and technical assistance provided by the California Child Care Resource and Referral Network to parents, providers, and employment agencies.

(4) The implementation by the local child care resource and referral programs of the trustline program.

(5) The cost to the department to process the applications and maintain the trustline registry.

1596.615. All moneys collected by the department to implement this chapter shall, notwithstanding Section 13340 of the Government Code, be continuously appropriated to the department without regard to fiscal year for expenditure pursuant to this chapter.

1596.62. (a) (1) The Department of Justice shall maintain and continually update an index of reports of child abuse by, and pertinent criminal convictions of, providers and shall inform the

department of subsequent reports received from the child abuse index pursuant to Section 11170 of the Penal Code and the criminal history. The department shall continually update the trustline registry pursuant to the actions required in Section 1596.607.

(2) The trustline applicant and registered trustline provider shall inform the department of any new mailing address in writing within 10 days of the change in address.

(b) The department shall provide the California Child Care Resource and Referral Network with a continually updated record of the trustline applicants, trustline applicants that the department denied, the registered trustline child care providers, and providers whose registration that the department revoked.

(c) Notwithstanding any other law, including Part 3 (commencing with Section 900) of Division 3.6 of Title 1 of the Government Code, state officers or employees shall not be liable for any damages caused by their conduct pursuant to this chapter except for intentional acts or gross negligence.

(d) On July 1, 1998, the Department of Justice shall transfer all trustline application and registration material to the department. The department shall be responsible for all pending applications and hearings and shall transfer all trustline application and registration information.

1596.63. It is a misdemeanor for a person to falsely represent or present himself or herself as a trustline applicant or a registered trustline child care provider.

1596.64. (a) The department shall enter into a contract with the California Child Care Resource and Referral Network to administer the trustline duties as described in this chapter.

(b) The California Child Care Resources and Referral Network may subcontract with local resource and referral programs for the implementation of the trustline program at the local level.

1596.643. (a) The California Child Care Resource and Referral Network shall have the following responsibilities:

(1) Establish and maintain a toll-free line to allow parents, employment agencies, child care referral groups and registries, alternative payment programs, and others to determine if a provider is a trustline applicant or a registered trustline child care provider.

(2) Develop a statewide promotion plan, publicize statewide existence, benefits, and methods of accessing the trustline for both parents and providers, and distribute trustline applications statewide.

(3) Monitor and provide assistance to the child care resource and referral agencies in carrying out their trustline responsibilities.

(4) Seek private financial support for the trustline.

(5) Ensure that the trustline is accessible to all persons in the state, regardless of their ability to speak English.

(b) Officers or employees of the California Child Care Resource and Referral Network shall not be liable for any injury caused by their

conduct pursuant to paragraph (1) of subdivision (a), except for intentional conduct or gross negligence.

1596.645. The California Child Care Resource and Referral Network, in consultation with representatives of private industry, parents, child care resource and referral agencies, the department, the State Department of Education, trustline providers, employment agencies, and the pediatric health sector, shall review and make recommendations concerning the operation of the trustline. This review shall include a consideration of strategies for reducing the processing time for trustline application denials, and to the extent possible, an evaluation of, or proposed methodology for measuring, whether those child care providers for whom trustline applications are denied are still providing care when denial letters are sent to them.

1596.65. An employment agency, as defined in Section 1812.501 of the Civil Code, that refers a child care provider to parents or guardians who are not required to be a licensed child day care facility shall not make a placement of a provider who is not a trustline applicant or a registered child care provider.

1596.655. A child care resource and referral agency established pursuant to Article 2 (commencing with Section 8210) of Chapter 2 of Part 6 of the Education Code shall have the following responsibilities in the administration of the trustline within its local geographic area of service:

(a) Implement the local elements of the promotion plan designed by the California Child Care Resource and Referral Network pursuant to Section 1596.643 and publicize the availability, purpose, and benefits of the trustline to parents, child care providers, prospective child care providers, and institutions and agencies that have frequent contact with parents and providers.

(b) Cooperate with the California Child Care Resource and Referral Network in promotional and data collection efforts.

(c) Report annually to the California Child Care Resource and Referral Network on local promotional efforts, problems encountered, and recommendations for program improvement.

(d) Ensure that the trustline is accessible to all persons in the state, regardless of their ability to speak English.

(e) Provide information and technical assistance on the trustline process to parents, child care providers, and other interested parties.

1596.66. (a) Each license-exempt child care provider, as defined pursuant to Section 1596.60, who is compensated, in whole or in part, with funds provided pursuant to the Alternative Payment Program, Article 3 (commencing with Section 8220) of Chapter 2 of Part 6 of the Education Code or pursuant to the federal Child Care and Development Block Grant Program, except a provider who is, by marriage, blood, or court decree, the grandparent, aunt, or uncle of the child in care, shall be registered pursuant to Sections 1596.603 and 1596.605 in order to be eligible to receive this compensation.

Registration under this chapter shall be required for providers who receive funds under Section 9858 and following of Title 42 of the United States Code only to the extent permitted by that law and the regulations adopted pursuant thereto. Registration under this chapter shall be required for providers who receive funds under the federal Child Care and Development Block Grant Program only to the extent permitted by that program and the regulations adopted pursuant thereto.

(b) For the purposes of registration of the providers identified in subdivision (a), the following procedures shall apply:

(1) Notwithstanding subdivision (a) of Section 1596.603, the provider shall submit the fingerprints and trustline application to the local child care resource and referral agency established pursuant to Article 2 (commencing with Section 8210) of Chapter 2 of Part 6 of the Education Code. The local child care resource and referral agency shall transmit the fingerprints and completed trustline applications to the department and address any local problems that occur in the registration system. If a fee is charged by the local child care resource and referral agency that takes a provider's fingerprints, the provider shall be reimbursed for this charge by the State Department of Education, through the local child care resource and referral agency, from federal Child Care and Development Block Grant funds to the extent that those funds are available.

(2) The department shall adhere to the requirements of Sections 1596.603, 1596.605, 1596.606, and 1596.607 and shall notify the California Child Care Resource and Referral Network of any action it takes pursuant to Sections 1596.605, 1596.606, and 1596.607.

(3) The California Child Care Resource and Referral Network shall notify the applicable local child care resource and referral agencies, alternative payment programs, and county welfare departments of the status of the trustline applicants and registered trustline child care providers. The network shall maintain a toll-free telephone line to provide information to the local resource and referral agencies, the alternative payment programs, and the child care recipients of the status of providers.

(c) This chapter shall become operative only if funds appropriated for the purposes of this article from Item 6110-196-890 of Section 2 of the Budget Act of 1991 are incorporated into and approved as part of the state plan that is required pursuant to Section 658(E)(a) of the federal Child Care Block Grant Act of 1990 (Sec. 5082, P.L. 101-508).

1596.67. (a) To the extent permitted by federal law, each child care provider, as defined by Section 1596.60, who is compensated, in whole or in part, with funds provided pursuant to Subchapter II-B (commencing with Section 9858) of Chapter 105 of Title 42 of the United States Code, except a provider who is, by marriage, blood, or court decree, the grandparent, aunt, or uncle of the child in care, shall be registered pursuant to Sections 1596.603 and 1596.605 in order

to be eligible to receive this compensation. Active trustline registration is required for providers who receive compensation pursuant to Subchapter II-B (commencing with Section 9858) of Chapter 105 of Title 42 of the United States Code only to the extent permitted by that law and the regulations adopted pursuant thereto. This section applies only to a license-exempt child care provider, as defined by Section 1596.60, who registers for payment under Subchapter II-B (commencing with Section 9858) of Chapter 105 of Title 42 of the United States Code after the implementation of the trustline registration system in those programs. A provider, as defined by Section 1596.60, who was exempted from trustline registration because the provider was not compensated, in whole or in part, with funds provided pursuant to Subchapter IV (commencing with Section 601) of Chapter 7 of Title 42 of the United States Code shall be registered, at no cost to the provider, pursuant to Sections 1596.603 and 1596.605 when either of the following occur:

(1) The provider begins to provide child care to an eligible family for which he or she has not provided care.

(2) The provider begins to provide child care to an eligible family subsequent to a lapse in providing care that is compensated pursuant to Subchapter II-B (commencing with Section 9858) of Chapter 105 of Title 42 of the United States Code.

(b) Payment provided pursuant to subdivision (a) shall cease if the provider has a criminal conviction for which the department has not granted a criminal record exemption pursuant to subdivision (f) of Section 1596.871.

(c) Subdivision (a) shall not be implemented unless funding for trustline registration is appropriated to the department for this purpose in the annual Budget Act or in other legislation. The department shall enter into a contract with the California Child Care Resource and Referral Network to administer the trustline as it relates to providers who are compensated pursuant to Subchapter II-B (commencing with Section 9858) of Chapter 105 of Title 42 of the United States Code.

1596.68. (a) This chapter shall be operative on July 1, 1998.

(b) (1) Before, on, or after July 1, 1998, the department may adopt regulations to implement this chapter.

(2) The initial adoption of any emergency regulations for purposes of this chapter following January 1, 1998, shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health, and safety, or general welfare. Emergency regulations adopted pursuant to this subdivision shall remain in effect for no more than 180 days.

SEC. 5. Section 11170 of the Penal Code is amended to read:

11170. (a) The Department of Justice shall maintain an index of all reports of child abuse submitted pursuant to Section 11169. The index shall be continually updated by the department and shall not contain any reports that are determined to be unfounded. The

department may adopt rules governing recordkeeping and reporting pursuant to this article.

(b) (1) The Department of Justice shall immediately notify a child protective agency that submits a report pursuant to Section 11169, or a district attorney who requests notification, of any information maintained pursuant to subdivision (a) that is relevant to the known or suspected instance of child abuse reported by the agency. A child protective agency shall make that information available to the reporting medical practitioner, child custodian, guardian ad litem appointed under Section 326, or counsel appointed under Section 317 or 318 of the Welfare and Institutions Code, or the appropriate licensing agency, if he or she is treating or investigating a case of known or suspected child abuse.

(2) When a report is made pursuant to subdivision (a) or (c) of Section 11166, the investigating agency, upon completion of the investigation or after there has been a final disposition in the matter, shall inform the person required to report of the results of the investigation and of any action the agency is taking with regard to the child or family.

(3) The department shall make available to the State Department of Social Services or to any county licensing agency that has contracted with the state for the performance of licensing duties any information received subsequent to January 1, 1981, pursuant to this section concerning any person who is an applicant for licensure or any adult who resides or is employed in the home of an applicant for licensure or who is an applicant for employment in a position having supervisorial or disciplinary power over a child or children, or who will provide 24-hour care for a child or children in a residential home or facility, pursuant to Section 1522.1 or 1596.877 of the Health and Safety Code, or Section 8714, 8802, 8912, or 9000 of the Family Code. If the department has information that has been received subsequent to January 1, 1981, concerning a person, it also shall make available to the State Department of Social Services or to the county licensing agency any other information maintained pursuant to subdivision (a).

(4) Persons or agencies, as specified in subdivision (b), if investigating a case of known or suspected child abuse, or the State Department of Social Services or any county licensing agency pursuant to paragraph (3), to whom disclosure of any information maintained pursuant to subdivision (a) is authorized, are responsible for obtaining the original investigative report from the reporting agency, and for drawing independent conclusions regarding the quality of the evidence disclosed, and its sufficiency for making decisions regarding investigation, prosecution, or licensing.

(5) (A) Effective January 1, 1993, whenever information contained in the Department of Justice files is furnished as the result of an application for employment or licensing pursuant to paragraph (3), the Department of Justice may charge the person or entity

making the request a fee. The fee shall not exceed the reasonable costs to the department of providing the information. The only increase shall be at a rate not to exceed the legislatively approved cost-of-living adjustment for the department. In no case shall the fee exceed fifteen dollars ($15).

(B) All moneys received by the department pursuant to this section to process trustline applications for purposes of Chapter 3.35 (commencing with Section 1596.60) of Division 2 of the Health and Safety Code shall be deposited in a special account in the General Fund that is hereby established and named the Department of Justice Child Abuse Fund. Moneys in the fund shall be available, upon appropriation by the Legislature, for expenditure by the department to offset the costs incurred to process trustline automated child abuse system checks pursuant to this section.

(C) All moneys, other than that described in subparagraph (B), received by the department pursuant to this paragraph shall be deposited in a special account in the General Fund which is hereby created and named the Department of Justice Sexual Habitual Offender Fund. The funds shall be available, upon appropriation by the Legislature, for expenditure by the department to offset the costs incurred pursuant to Chapter 9.5 (commencing with Section 13885) and Chapter 10 (commencing with Section 13890) of Title 6 of Part 4, and Section 290.2, and for maintenance and improvements to the statewide Sexual Habitual Offender Program and the DNA offender identification file (CAL-DNA) authorized by Chapter 9.5 (commencing with Section 13885) of Title 6 of Part 4 and Section 290.2.

SEC. 6. Section 11170 of the Penal Code is amended to read:

11170. (a) The Department of Justice shall maintain an index of all reports of child abuse submitted pursuant to Section 11169. The index shall be continually updated by the department and shall not contain any reports that are determined to be unfounded. The department may adopt rules governing recordkeeping and reporting pursuant to this article.

(b) (1) The Department of Justice shall immediately notify a child protective agency that submits a report pursuant to Section 11169, or a district attorney who requests notification, of any information maintained pursuant to subdivision (a) that is relevant to the known or suspected instance of child abuse reported by the agency. A child protective agency shall make that information available to the reporting medical practitioner, child custodian, guardian ad litem appointed under Section 326, or counsel appointed under Section 317 or 318 of the Welfare and Institutions Code, or the appropriate licensing agency, if he or she is treating or investigating a case of known or suspected child abuse.

(2) When a report is made pursuant to subdivision (a) or (c) of Section 11166, the investigating agency, upon completion of the investigation or after there has been a final disposition in the matter,

shall inform the person required to report of the results of the investigation and of any action the agency is taking with regard to the child or family.

(3) The department shall make available to the State Department of Social Services or to any county licensing agency that has contracted with the state for the performance of licensing duties any information received subsequent to January 1, 1981, pursuant to this section concerning any person who is an applicant for licensure or any adult who resides or is employed in the home of an applicant for licensure or who is an applicant for employment in a position having supervisorial or disciplinary power over a child or children, or who will provide 24-hour care for a child or children in a residential home or facility, pursuant to Section 1522.1 or 1596.877 of the Health and Safety Code, or Section 8714, 8802, 8912, or 9000 of the Family Code. If the department has information that has been received subsequent to January 1, 1981, concerning a person, it also shall make available to the State Department of Social Services or to the county licensing agency any other information maintained pursuant to subdivision (a).

(4) Persons or agencies, as specified in subdivision (b), if investigating a case of known or suspected child abuse, or the State Department of Social Services or any county licensing agency pursuant to paragraph (3), to whom disclosure of any information maintained pursuant to subdivision (a) is authorized, are responsible for obtaining the original investigative report from the reporting agency, and for drawing independent conclusions regarding the quality of the evidence disclosed, and its sufficiency for making decisions regarding investigation, prosecution, or licensing.

(5) (A) Effective January 1, 1993, whenever information contained in the Department of Justice files is furnished as the result of an application for employment or licensing pursuant to paragraph (3), the Department of Justice may charge the person or entity making the request a fee. The fee shall not exceed the reasonable costs to the department of providing the information. The only increase shall be at a rate not to exceed the legislatively approved cost-of-living adjustment for the department. In no case shall the fee exceed fifteen dollars ($15).

(B) All moneys received by the department pursuant to this section to process trustline applications for purposes of Chapter 3.35 (commencing with Section 1596.60) of Division 2 of the Health and Safety Code shall be deposited in a special account in the General Fund that is hereby established and named the Department of Justice Child Abuse Fund. Moneys in the fund shall be available, upon appropriation by the Legislature, for expenditure by the department to offset the costs incurred to process trustline automated child abuse system checks pursuant to this section.

(C) All moneys, other than that described in subparagraph (B), received by the department pursuant to this paragraph shall be

deposited in a special account in the General Fund which is hereby created and named the Department of Justice Sexual Habitual Offender Fund. The funds shall be available, upon appropriation by the Legislature, for expenditure by the department to offset the costs incurred pursuant to Chapter 9.5 (commencing with Section 13885) and Chapter 10 (commencing with Section 13890) of Title 6 of Part 4, and Section 290.2, and for maintenance and improvements to the statewide Sexual Habitual Offender Program and the DNA offender identification file (CAL-DNA) authorized by Chapter 9.5 (commencing with Section 13885) of Title 6 of Part 4 and Section 290.2.

(c) The Department of Justice shall make available to any child protective agency responsible for placing children pursuant to Article 7 (commencing with Section 305) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, upon request, relevant information concerning child abuse reports contained in the index, when making a placement with a responsible relative pursuant to Sections 281.5, 305, and 361.3 of the Welfare and Institutions Code. Upon receipt of relevant information concerning child abuse reports contained in the index from the Department of Justice pursuant to this subdivision, the child protective agency shall also notify in writing the person listed in the Child Abuse Central Index that he or she is in the index. The notification shall include the location of the original investigative report and the submitting agency. The notification shall be submitted to the person listed at the same time that all other parties are notified of the information, and no later than the actual judicial proceeding that determines placement.

If Child Abuse Central Index information is requested by a child protective agency for the placement of a child with a responsible relative in an emergency situation pursuant to Article 7 (commencing with Section 305) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, the department is exempt from the requirements of Section 1798.18 of the Civil Code if compliance would cause a delay in providing an expedited response to the child protective agency's inquiry and if further delay in placement may be detrimental to the child.

SEC. 7. Section 11170 of the Penal Code is amended to read:

11170. (a) The Department of Justice shall maintain an index of all reports of child abuse submitted pursuant to Section 11169. The index shall be continually updated by the department and shall not contain any reports that are determined to be unfounded. The department may adopt rules governing recordkeeping and reporting pursuant to this article.

(b) (1) The Department of Justice shall immediately notify a child protective agency that submits a report pursuant to Section 11169, or a district attorney who requests notification, of any information maintained pursuant to subdivision (a) that is relevant

to the known or suspected instance of child abuse reported by the agency. A child protective agency shall make that information available to the reporting medical practitioner, child custodian, guardian ad litem appointed under Section 326, or counsel appointed under Section 317 or 318 of the Welfare and Institutions Code, or the appropriate licensing agency, if he or she is treating or investigating a case of known or suspected child abuse.

(2) When a report is made pursuant to subdivision (a) or (c) of Section 11166, the investigating agency, upon completion of the investigation or after there has been a final disposition in the matter, shall inform the person required to report of the results of the investigation and of any action the agency is taking with regard to the child or family.

(3) The department shall make available to the State Department of Social Services or to any county licensing agency that has contracted with the state for the performance of licensing duties information regarding a known or suspected child abuser maintained pursuant to this section and subdivision (a) of Section 11169 concerning any person who is an applicant for licensure or any adult who resides or is employed in the home of an applicant for licensure or who is an applicant for employment in a position having supervisorial or disciplinary power over a child or children, or who will provide 24-hour care for a child or children in a residential home or facility, pursuant to Section 1522.1 or 1596.877 of the Health and Safety Code, or Section 8714, 8802, 8912, or 9000 of the Family Code.

(4) For purposes of child death review, the Department of Justice shall make available to the chairperson, or the chairperson's designee, for each county child death review team, or the State Child Death Review Council, information maintained in the Child Abuse Central Index pursuant to subdivision (a) of Section 11170 relating to the death of one or more children and any prior child abuse investigation reports maintained involving the same victims, siblings, or suspects. Local child death review teams may share any relevant information regarding case reviews involving child death with other child death review teams.

(5) The department shall make available to child protective agencies, or court investigators acting pursuant to Section 1513 of the Probate Code, responsible for placing children or assessing the possible placement of children pursuant to Article 6 (commencing with Section 300), Article 7 (commencing with Section 305), Article 10 (commencing with Section 360), or Article 14 (commencing with Section 601) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, Article 2 (commencing with Section 1510) or Article 3 (commencing with Section 1540) of Chapter 1 of Part 2 of Division 4 of the Probate Code, information regarding a known or suspected child abuser contained in the index concerning any adult residing in the home where the child may be placed, when this information is requested for purposes of ensuring that the placement

is in the best interests of the child. Upon receipt of relevant information concerning child abuse investigation reports contained in the index from the Department of Justice pursuant to this subdivision, the child protective agency or court investigator shall notify, in writing, the person listed in the Child Abuse Central Index that he or she is in the index. The notification shall include the name of the reporting agency and the date of the report.

(6) (A) Persons or agencies, as specified in subdivision (b), if investigating a case of known or suspected child abuse, or the State Department of Social Services or any county licensing agency pursuant to paragraph (3), or a child protective agency or court investigator responsible for placing children or assessing the possible placement of children pursuant to paragraph (5), to whom disclosure of any information maintained pursuant to subdivision (a) is authorized, are responsible for obtaining the original investigative report from the reporting agency, and for drawing independent conclusions regarding the quality of the evidence disclosed, and its sufficiency for making decisions regarding investigation, prosecution, licensing, or placement of a child.

(B) If Child Abuse Central Index information is requested by a child protective agency for the temporary placement of a child in an emergency situation pursuant to Article 7 (commencing with Section 305) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, the department is exempt from the requirements of Section 1798.18 of the Civil Code if compliance would cause a delay in providing an expedited response to the child protective agency's inquiry and if further delay in placement may be detrimental to the child.

(7) (A) Whenever information contained in the Department of Justice files is furnished as the result of an application for employment or licensing pursuant to paragraph (3), the Department of Justice may charge the person or entity making the request a fee. The fee shall not exceed the reasonable costs to the department of providing the information. The only increase shall be at a rate not to exceed the legislatively approved cost-of-living adjustment for the department. In no case shall the fee exceed fifteen dollars ($15).

(B) All moneys received by the department pursuant to this section to process trustline applications for purposes of Chapter 3.35 (commencing with Section 1596.60) of Division 2 of the Health and Safety Code shall be deposited in a special account in the General Fund that is hereby established and named the Department of Justice Child Abuse Fund. Moneys in the fund shall be available, upon appropriation by the Legislature, for expenditure by the department to offset the costs incurred to process trustline automated child abuse system checks pursuant to this section.

(C) All moneys, other than that described in subparagraph (B), received by the department pursuant to this paragraph shall be deposited in a special account in the General Fund which is hereby

created and named the Department of Justice Sexual Habitual Offender Fund. The funds shall be available, upon appropriation by the Legislature, for expenditure by the department to offset the costs incurred pursuant to Chapter 9.5 (commencing with Section 13885) and Chapter 10 (commencing with Section 13890) of Title 6 of Part 4, and Section 290.2, and for maintenance and improvements to the statewide Sexual Habitual Offender Program and the DNA offender identification file (CAL-DNA) authorized by Chapter 9.5 (commencing with Section 13885) of Title 6 of Part 4 and Section 290.2.

(c) The department shall make available any information maintained pursuant to Section 11169 to out-of-state law enforcement agencies conducting investigations of known or suspected child abuse only when an agency makes the request for information in writing and on official letterhead, identifying the suspected abuser or victim by name. The request shall be signed by the department supervisor of the requesting law enforcement agency. The written requests shall cite the out-of-state statute or interstate compact provision that requires that the information contained within these reports shall be disclosed only to law enforcement, prosecutorial entities, or multidisciplinary investigative teams, and shall cite the criminal penalties for unlawful disclosure of any confidential information provided by the requesting state or the applicable interstate compact provision. In the absence of a specified out-of-state statute or interstate compact provision that requires that the information contained within these reports shall be disclosed only to law enforcement, prosecutorial entities, or multidisciplinary investigative teams, and criminal penalties equivalent to the penalties in California for unlawful disclosure, access shall be denied.

(d) Any person may determine if he or she is listed in the Child Abuse Central Index by making a request in writing to the Department of Justice. The request shall be notarized and include the person's name, address, date of birth, and either a social security number or a California identification number. Upon receipt of a notarized request, the Department of Justice shall make available to the requesting person information identifying the date of the report and the submitting agency. The requesting person is responsible for obtaining the investigative report from the submitting agency pursuant to paragraph (11) of subdivision (a) of Section 11167.5.

(e) If a person is listed in the Child Abuse Central Index only as a victim of child abuse, and that person is 18 years of age or older, that person may have his or her name removed from the index by making a written request to the Department of Justice. The request shall be notarized and include the person's name, address, social security number, and date of birth.

SEC. 8. Section 11170 of the Penal Code is amended to read:

11170. (a) The Department of Justice shall maintain an index of all reports of child abuse submitted pursuant to Section 11169. The index shall be continually updated by the department and shall not contain any reports that are determined to be unfounded. The department may adopt rules governing recordkeeping and reporting pursuant to this article.

(b) (1) The Department of Justice shall immediately notify a child protective agency that submits a report pursuant to Section 11169, or a district attorney who requests notification, of any information maintained pursuant to subdivision (a) that is relevant to the known or suspected instance of child abuse reported by the agency. A child protective agency shall make that information available to the reporting medical practitioner, child custodian, guardian ad litem appointed under Section 326, or counsel appointed under Section 317 or 318 of the Welfare and Institutions Code, or the appropriate licensing agency, if he or she is treating or investigating a case of known or suspected child abuse.

(2) When a report is made pursuant to subdivision (a) or (c) of Section 11166, the investigating agency, upon completion of the investigation or after there has been a final disposition in the matter, shall inform the person required to report of the results of the investigation and of any action the agency is taking with regard to the child or family.

(3) The department shall make available to the State Department of Social Services or to any county licensing agency that has contracted with the state for the performance of licensing duties information regarding a known or suspected child abuser maintained pursuant to this section and subdivision (a) of Section 11169 concerning any person who is an applicant for licensure or any adult who resides or is employed in the home of an applicant for licensure or who is an applicant for employment in a position having supervisorial or disciplinary power over a child or children, or who will provide 24-hour care for a child or children in a residential home or facility, pursuant to Section 1522.1 or 1596.877 of the Health and Safety Code, or Section 8714, 8802, 8912, or 9000 of the Family Code.

(4) For purposes of child death review, the Department of Justice shall make available to the chairperson, or the chairperson's designee, for each county child death review team, or the State Child Death Review Council, information maintained in the Child Abuse Central Index pursuant to subdivision (a) of Section 11170 relating to the death of one or more children and any prior child abuse investigation reports maintained involving the same victims, siblings, or suspects. Local child death review teams may share any relevant information regarding case reviews involving child death with other child death review teams.

(5) The department shall make available to child protective agencies, or court investigators acting pursuant to Section 1513 of the Probate Code, responsible for placing children or assessing the

possible placement of children pursuant to Article 6 (commencing with Section 300), Article 7 (commencing with Section 305), Article 10 (commencing with Section 360), or Article 14 (commencing with Section 601) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, Article 2 (commencing with Section 1510) or Article 3 (commencing with Section 1540) of Chapter 1 of Part 2 of Division 4 of the Probate Code, information regarding a known or suspected child abuser contained in the index concerning any adult residing in the home where the child may be placed, when this information is requested for purposes of ensuring that the placement is in the best interests of the child. Upon receipt of relevant information concerning child abuse investigation reports contained in the index from the Department of Justice pursuant to this subdivision, the child protective agency or court investigator shall notify, in writing, the person listed in the Child Abuse Central Index that he or she is in the index. The notification shall include the name of the reporting agency and the date of the report.

(6) (A) Persons or agencies, as specified in subdivision (b), if investigating a case of known or suspected child abuse, or the State Department of Social Services or any county licensing agency pursuant to paragraph (3), or a child protective agency or court investigator responsible for placing children or assessing the possible placement of children pursuant to paragraph (5), to whom disclosure of any information maintained pursuant to subdivision (a) is authorized, are responsible for obtaining the original investigative report from the reporting agency, and for drawing independent conclusions regarding the quality of the evidence disclosed, and its sufficiency for making decisions regarding investigation, prosecution, licensing, or placement of a child.

(B) If Child Abuse Central Index information is requested by a child protective agency for the temporary placement of a child in an emergency situation pursuant to Article 7 (commencing with Section 305) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, the department is exempt from the requirements of Section 1798.18 of the Civil Code if compliance would cause a delay in providing an expedited response to the child protective agency's inquiry and if further delay in placement may be detrimental to the child.

(7) (A) Whenever information contained in the Department of Justice files is furnished as the result of an application for employment or licensing pursuant to paragraph (3), the Department of Justice may charge the person or entity making the request a fee. The fee shall not exceed the reasonable costs to the department of providing the information. The only increase shall be at a rate not to exceed the legislatively approved cost-of-living adjustment for the department. In no case shall the fee exceed fifteen dollars ($15).

(B) All moneys received by the department pursuant to this section to process trustline applications for purposes of Chapter 3.35

(commencing with Section 1596.60) of Division 2 of the Health and Safety Code shall be deposited in a special account in the General Fund that is hereby established and named the Department of Justice Child Abuse Fund. Moneys in the fund shall be available, upon appropriation by the Legislature, for expenditure by the department to offset the costs incurred to process trustline automated child abuse system checks pursuant to this section.

(C) All moneys, other than that described in subparagraph (B), received by the department pursuant to this paragraph shall be deposited in a special account in the General Fund which is hereby created and named the Department of Justice Sexual Habitual Offender Fund. The funds shall be available, upon appropriation by the Legislature, for expenditure by the department to offset the costs incurred pursuant to Chapter 9.5 (commencing with Section 13885) and Chapter 10 (commencing with Section 13890) of Title 6 of Part 4, and Section 290.2, and for maintenance and improvements to the statewide Sexual Habitual Offender Program and the DNA offender identification file (CAL-DNA) authorized by Chapter 9.5 (commencing with Section 13885) of Title 6 of Part 4 and Section 290.2.

(c) The Department of Justice shall make available to any child protective agency responsible for placing children pursuant to Article 7 (commencing with Section 305) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, upon request, relevant information concerning child abuse reports contained in the index, when making a placement with a responsible relative pursuant to Sections 281.5, 305, and 361.3 of the Welfare and Institutions Code. Upon receipt of relevant information concerning child abuse reports contained in the index from the Department of Justice pursuant to this subdivision, the child protective agency shall also notify in writing the person listed in the Child Abuse Central Index that he or she is in the index. The notification shall include the location of the original investigative report and the submitting agency. The notification shall be submitted to the person listed at the same time that all other parties are notified of the information, and no later than the actual judicial proceeding that determines placement.

If Child Abuse Central Index information is requested by a child protective agency for the placement of a child with a responsible relative in an emergency situation pursuant to Article 7 (commencing with Section 305) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, the department is exempt from the requirements of Section 1798.18 of the Civil Code if compliance would cause a delay in providing an expedited response to the child protective agency's inquiry and if further delay in placement may be detrimental to the child.

(d) The department shall make available any information maintained pursuant to Section 11169 to out-of-state law

enforcement agencies conducting investigations of known or suspected child abuse only when an agency makes the request for information in writing and on official letterhead, identifying the suspected abuser or victim by name. The request shall be signed by the department supervisor of the requesting law enforcement agency. The written requests shall cite the out-of-state statute or interstate compact provision that requires that the information contained within these reports shall be disclosed only to law enforcement, prosecutorial entities, or multidisciplinary investigative teams, and shall cite the criminal penalties for unlawful disclosure of any confidential information provided by the requesting state or the applicable interstate compact provision. In the absence of a specified out-of-state statute or interstate compact provision that requires that the information contained within these reports shall be disclosed only to law enforcement, prosecutorial entities, or multidisciplinary investigative teams, and criminal penalties equivalent to the penalties in California for unlawful disclosure, access shall be denied.

(e) Any person may determine if he or she is listed in the Child Abuse Central Index by making a request in writing to the Department of Justice. The request shall be notarized and include the person's name, address, date of birth, and either a social security number or a California identification number. Upon receipt of a notarized request, the Department of Justice shall make available to the requesting person information identifying the date of the report and the submitting agency. The requesting person is responsible for obtaining the investigative report from the submitting agency pursuant to paragraph (11) of subdivision (a) of Section 11167.5.

(f) If a person is listed in the Child Abuse Central Index only as a victim of child abuse, and that person is 18 years of age or older, that person may have his or her name removed from the index by making a written request to the Department of Justice. The request shall be notarized and include the person's name, address, social security number, and date of birth.

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.

SEC. 10. (a) Section 6 of this bill incorporates amendments to Section 11170 of the Penal Code proposed by both this bill and AB

1065. 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 11170 of the Penal Code, (3) SB 644 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 1065, in which case Sections 5, 7, and 8 of this bill shall not become operative.

(b) Section 7 of this bill incorporates amendments to Section 11170 of the Penal Code proposed by both this bill and SB 644. 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 11170 of the Penal Code, (3) AB 1065 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after SB 644, in which case Sections 5, 6, and 8 of this bill shall not become operative.

(c) Section 8 of this bill incorporates amendments to Section 11170 of the Penal Code proposed by this bill, AB 1065, and SB 644. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 1998, (2) all three bills amend Section 11170 of the Penal Code, and (3) this bill is enacted after AB 1065 and SB 644, in which case Sections 5, 6, and 7 of this bill shall not become operative.

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## CHAPTER 844

An act to amend Sections 11167.5 and 11170 of the Penal Code, relating to child abuse.

[Approved by Governor October 9, 1997. Filed with
Secretary of State October 10, 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 shall be a misdemeanor punishable by up to six months in jail or by a fine of five hundred dollars ($500) or by both.

(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 may subpoena 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.

(10) Personnel from a child protective agency responsible for making a placement of a child pursuant to Section 361.3 of, and Article 7 (commencing with Section 305) of Chapter 2 of Part 1 of Division 2 of, the Welfare and Institutions Code.

(11) Persons who have been identified by the Department of Justice as listed in the Child Abuse Central Index pursuant to subdivision (c) of Section 11170. Nothing in this paragraph shall preclude a submitting agency prior to disclosure from redacting the name, address, and telephone number of a witness, person who reports under this article, or victim in order to maintain confidentiality as required by law.

(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.

SEC. 1.5. 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 all hospital scan teams.

(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.

(10) Personnel from a child protective agency responsible for making a placement of a child pursuant to Section 361.3 of, and Article 7 (commencing with Section 305) of Chapter 2 of Part 1 of Division 2 of, the Welfare and Institutions Code.

(11) Persons who have been identified by the Department of Justice as listed in the Child Abuse Central Index pursuant to subdivision (c) of Section 11170. Nothing in this paragraph shall preclude a submitting agency prior to disclosure from redacting the name, address, and telephone number of a witness, person who reports under this article, or victim in order to maintain confidentiality as required by law.

(12) Out-of-state law enforcement agencies conducting an investigation of child abuse only when an agency makes the request for reports of suspected child abuse in writing and on official letterhead, identifying the suspected abuser or victim by name. The request shall be signed by the department supervisor of the requesting law enforcement agency. The written requests shall cite the out-of-state statute or interstate compact provision that requires that the information contained within these reports shall be disclosed only to law enforcement, prosecutorial entities, or multidisciplinary investigative teams, and shall cite the criminal penalties for unlawful disclosure provided by the requesting state or the applicable interstate compact provision. In the absence of a specific out-of-state statute or interstate compact provision that requires that the information contained within these reports shall be disclosed only to law enforcement, prosecutorial entities, or multidisciplinary investigative teams, and criminal penalties equivalent to the penalties in California for unlawful disclosure, access shall be denied.

(13) Persons who have verified with the Department of Justice that they are listed in the Child Abuse Central Index as provided by subdivision (e) of Section 11170. Disclosure under this section shall be subject to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code). Nothing in this section shall preclude a submitting agency prior to disclosure from redacting the name, address, and telephone number of a witness, person who reports under this article, or victim to maintain confidentiality as required by law.

(14) Each county child death review team's chairperson, or the chairperson's designee, to whom disclosure of information is permitted under this article, relating to the death of one or more children and any prior child abuse investigation reports maintained involving the same victim, siblings, or suspects. Local child death review teams may share any relevant information regarding case reviews involving child death with other child death review teams.

(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 123600 and 123605 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.

SEC. 2. Section 11170 of the Penal Code is amended to read:

11170. (a) The Department of Justice shall maintain an index of all reports of child abuse submitted pursuant to Section 11169. The index shall be continually updated by the department and shall not contain any reports that are determined to be unfounded. The department may adopt rules governing recordkeeping and reporting pursuant to this article.

(b) (1) The Department of Justice shall immediately notify a child protective agency that submits a report pursuant to Section 11169, or a district attorney who requests notification, of any information maintained pursuant to subdivision (a) that is relevant to the known or suspected instance of child abuse reported by the agency. A child protective agency shall make that information available to the reporting medical practitioner, child custodian, guardian ad litem appointed under Section 326, or counsel appointed under Section 317 or 318 of the Welfare and Institutions Code, or the appropriate licensing agency, if he or she is treating or investigating a case of known or suspected child abuse.

(2) When a report is made pursuant to subdivision (a) or (c) of Section 11166, the investigating agency, upon completion of the investigation or after there has been a final disposition in the matter, shall inform the person required to report of the results of the investigation and of any action the agency is taking with regard to the child or family.

(3) The department shall make available to the State Department of Social Services or to any county licensing agency that has contracted with the state for the performance of licensing duties any information received subsequent to January 1, 1981, pursuant to this section concerning any person who is an applicant for licensure or any adult who resides or is employed in the home of an applicant for licensure or who is an applicant for employment in a position having

supervisorial or disciplinary power over a child or children, or who will provide 24-hour care for a child or children in a residential home or facility, pursuant to Section 1522.1 or 1596.877 of the Health and Safety Code, or Section 8714, 8802, 8912, or 9000 of the Family Code. If the department has information that has been received subsequent to January 1, 1981, concerning a person, it also shall make available to the State Department of Social Services or to the county licensing agency any other information maintained pursuant to subdivision (a).

(4) Persons or agencies, as specified in subdivision (b), if investigating a case of known or suspected child abuse, or the State Department of Social Services or any county licensing agency pursuant to paragraph (3), to whom disclosure of any information maintained pursuant to subdivision (a) is authorized, are responsible for obtaining the original investigative report from the reporting agency, and for drawing independent conclusions regarding the quality of the evidence disclosed, and its sufficiency for making decisions regarding investigation, prosecution, or licensing.

(5) (A) Effective January 1, 1993, whenever information contained in the Department of Justice files is furnished as the result of an application for employment or licensing pursuant to paragraph (3), the Department of Justice may charge the person or entity making the request a fee. The fee shall not exceed the reasonable costs to the department of providing the information. The only increase shall be at a rate not to exceed the legislatively approved cost-of-living adjustment for the department. In no case shall the fee exceed fifteen dollars ($15).

(B) All moneys received by the department pursuant to this section to process trustline applications for purposes of Chapter 3.35 (commencing with Section 1596.60) of Division 2 of the Health and Safety Code shall be deposited in a special account in the General Fund that is hereby established and named the Department of Justice Child Abuse Fund. Moneys in the fund shall be available, upon appropriation by the Legislature, for expenditure by the department to offset the costs incurred to process trustline automated child abuse system checks pursuant to this section.

(C) All moneys, other than that described in subparagraph (B), received by the department pursuant to this paragraph shall be deposited in a special account in the General Fund which is hereby created and named the Department of Justice Sexual Habitual Offender Fund. The funds shall be available, upon appropriation by the Legislature, for expenditure by the department to offset the costs incurred pursuant to Chapter 9.5 (commencing with Section 13885) and Chapter 10 (commencing with Section 13890) of Title 6 of Part 4, and Section 290.2, and for maintenance and improvements to the statewide Sexual Habitual Offender Program and the DNA offender identification file (CAL-DNA) authorized by Chapter 9.5

(commencing with Section 13885) of Title 6 of Part 4 and Section 290.2.

(c) The Department of Justice shall make available to any child protective agency responsible for placing children pursuant to Article 7 (commencing with Section 305) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, upon request, relevant information concerning child abuse reports contained in the index, when making a placement with a responsible relative pursuant to Sections 281.5, 305, and 361.3 of the Welfare and Institutions Code. Upon receipt of relevant information concerning child abuse reports contained in the index from the Department of Justice pursuant to this subdivision, the child protective agency shall also notify in writing the person listed in the Child Abuse Central Index that he or she is in the index. The notification shall include the location of the original investigative report and the submitting agency. The notification shall be submitted to the person listed at the same time that all other parties are notified of the information, and no later than the actual judicial proceeding that determines placement.

If Child Abuse Central Index information is requested by a child protective agency for the placement of a child with a responsible relative in an emergency situation pursuant to Article 7 (commencing with Section 305) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, the department is exempt from the requirements of Section 1798.18 of the Civil Code if compliance would cause a delay in providing an expedited response to the child protective agency's inquiry and if further delay in placement may be detrimental to the child.

SEC. 2.5. Section 11170 of the Penal Code is amended to read:

11170. (a) (1) The Department of Justice shall maintain an index of all reports of child abuse submitted pursuant to Section 11169. The index shall be continually updated by the department and shall not contain any reports that are determined to be unfounded. The department may adopt rules governing recordkeeping and reporting pursuant to this article.

(2) The department shall act only as a repository of reports of suspected child abuse to be maintained in the Child Abuse Central Index pursuant to paragraph (1). The submitting agencies are responsible for the accuracy, completeness, and retention of the reports described in this section. The department shall be responsible for ensuring that the Child Abuse Central Index accurately reflects the report it receives from the submitting agency.

(3) Information from an inconclusive or unsubstantiated report filed pursuant to subdivision (a) of Section 11169 shall be deleted from the Child Abuse Central Index after 10 years if no subsequent report concerning the same suspected child abuser is received within that time period. If a subsequent report is received within that 10-year period, information from any prior report, as well as any

subsequently filed report, shall be maintained on the Child Abuse Central Index for a period of 10 years from the time the most recent report is received by the department.

(b) (1) The Department of Justice shall immediately notify a child protective agency that submits a report pursuant to Section 11169, or a district attorney who requests notification, of any information maintained pursuant to subdivision (a) that is relevant to the known or suspected instance of child abuse reported by the agency. A child protective agency shall make that information available to the reporting medical practitioner, child custodian, guardian ad litem appointed under Section 326, or counsel appointed under Section 317 or 318 of the Welfare and Institutions Code, or the appropriate licensing agency, if he or she is treating or investigating a case of known or suspected child abuse.

(2) When a report is made pursuant to subdivision (a) or (c) of Section 11166, the investigating agency, upon completion of the investigation or after there has been a final disposition in the matter, shall inform the person required to report of the results of the investigation and of any action the agency is taking with regard to the child or family.

(3) The department shall make available to the State Department of Social Services or to any county licensing agency that has contracted with the state for the performance of licensing duties information regarding a known or suspected child abuser maintained pursuant to this section and subdivision (a) of Section 11169 concerning any person who is an applicant for licensure or any adult who resides or is employed in the home of an applicant for licensure or who is an applicant for employment in a position having supervisorial or disciplinary power over a child or children, or who will provide 24-hour care for a child or children in a residential home or facility, pursuant to Section 1522.1 or 1596.877 of the Health and Safety Code, or Section 8714, 8802, 8912, or 9000 of the Family Code.

(4) For purposes of child death review, the Department of Justice shall make available to the chairperson, or the chairperson's designee, for each county child death review team, or the State Child Death Review Council, information maintained in the Child Abuse Central Index pursuant to subdivision (a) of Section 11170 relating to the death of one or more children and any prior child abuse investigation reports maintained involving the same victims, siblings, or suspects. Local child death review teams may share any relevant information regarding case reviews involving child death with other child death review teams.

(5) The department shall make available to child protective agencies, or court investigators acting pursuant to Section 1513 of the Probate Code, responsible for placing children or assessing the possible placement of children pursuant to Article 6 (commencing with Section 300), Article 7 (commencing with Section 305), Article 10 (commencing with Section 360), or Article 14 (commencing with

Section 601) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, Article 2 (commencing with Section 1510) or Article 3 (commencing with Section 1540) of Chapter 1 of Part 2 of Division 4 of the Probate Code, information regarding a known or suspected child abuser contained in the index concerning any adult residing in the home where the child may be placed, when this information is requested for purposes of ensuring that the placement is in the best interests of the child. Upon receipt of relevant information concerning child abuse investigation reports contained in the index from the Department of Justice pursuant to this subdivision, the child protective agency or court investigator shall notify, in writing, the person listed in the Child Abuse Central Index that he or she is in the index. The notification shall include the name of the reporting agency and the date of the report.

(6) (A) Persons or agencies, as specified in subdivision (b), if investigating a case of known or suspected child abuse, or the State Department of Social Services or any county licensing agency pursuant to paragraph (3), or a child protective agency or court investigator responsible for placing children or assessing the possible placement of children pursuant to paragraph (5), to whom disclosure of any information maintained pursuant to subdivision (a) is authorized, are responsible for obtaining the original investigative report from the reporting agency, and for drawing independent conclusions regarding the quality of the evidence disclosed, and its sufficiency for making decisions regarding investigation, prosecution, licensing, or placement of a child.

(B) If Child Abuse Central Index information is requested by a child protective agency for the temporary placement of a child in an emergency situation pursuant to Article 7 (commencing with Section 305) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, the department is exempt from the requirements of Section 1798.18 of the Civil Code if compliance would cause a delay in providing an expedited response to the child protective agency's inquiry and if further delay in placement may be detrimental to the child.

(7) (A) Whenever information contained in the Department of Justice files is furnished as the result of an application for employment or licensing pursuant to paragraph (3), the Department of Justice may charge the person or entity making the request a fee. The fee shall not exceed the reasonable costs to the department of providing the information. The only increase shall be at a rate not to exceed the legislatively approved cost-of-living adjustment for the department. In no case shall the fee exceed fifteen dollars ($15).

(B) All moneys received by the department pursuant to this section to process trustline applications for purposes of Chapter 3.35 (commencing with Section 1596.60) of Division 2 of the Health and Safety Code shall be deposited in a special account in the General Fund that is hereby established and named the Department of Justice

Child Abuse Fund. Moneys in the fund shall be available, upon appropriation by the Legislature, for expenditure by the department to offset the costs incurred to process trustline automated child abuse system checks pursuant to this section.

(C) All moneys, other than that described in subparagraph (B), received by the department pursuant to this paragraph shall be deposited in a special account in the General Fund which is hereby created and named the Department of Justice Sexual Habitual Offender Fund. The funds shall be available, upon appropriation by the Legislature, for expenditure by the department to offset the costs incurred pursuant to Chapter 9.5 (commencing with Section 13885) and Chapter 10 (commencing with Section 13890) of Title 6 of Part 4, and Section 290.2, and for maintenance and improvements to the statewide Sexual Habitual Offender Program and the DNA offender identification file (CAL-DNA) authorized by Chapter 9.5 (commencing with Section 13885) of Title 6 of Part 4 and Section 290.2.

(c) The Department of Justice shall make available to any child protective agency responsible for placing children pursuant to Article 7 (commencing with Section 305) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, upon request, relevant information concerning child abuse reports contained in the index, when making a placement with a responsible relative pursuant to Sections 281.5, 305, and 361.3 of the Welfare and Institutions Code. Upon receipt of relevant information concerning child abuse reports contained in the index from the Department of Justice pursuant to this subdivision, the child protective agency shall also notify in writing the person listed in the Child Abuse Central Index that he or she is in the index. The notification shall include the location of the original investigative report and the submitting agency. The notification shall be submitted to the person listed at the same time that all other parties are notified of the information, and no later than the actual judicial proceeding that determines placement.

If Child Abuse Central Index information is requested by a child protective agency for the placement of a child with a responsible relative in an emergency situation pursuant to Article 7 (commencing with Section 305) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, the department is exempt from the requirements of Section 1798.18 of the Civil Code if compliance would cause a delay in providing an expedited response to the child protective agency's inquiry and if further delay in placement may be detrimental to the child.

(d) The department shall make available any information maintained pursuant to Section 11169 to out-of-state law enforcement agencies conducting investigations of known or suspected child abuse only when an agency makes the request for information in writing and on official letterhead, identifying the

suspected abuser or victim by name. The request shall be signed by the department supervisor of the requesting law enforcement agency. The written requests shall cite the out-of-state statute or interstate compact provision that requires that the information contained within these reports shall be disclosed only to law enforcement, prosecutorial entities, or multidisciplinary investigative teams, and shall cite the criminal penalties for unlawful disclosure of any confidential information provided by the requesting state or the applicable interstate compact provision. In the absence of a specified out-of-state statute or interstate compact provision that requires that the information contained within these reports shall be disclosed only to law enforcement, prosecutorial entities, or multidisciplinary investigative teams, and criminal penalties equivalent to the penalties in California for unlawful disclosure, access shall be denied.

(e) Any person may determine if he or she is listed in the Child Abuse Central Index by making a request in writing to the Department of Justice. The request shall be notarized and include the person's name, address, date of birth, and either a social security number or a California identification number. Upon receipt of a notarized request, the Department of Justice shall make available to the requesting person information identifying the date of the report and the submitting agency. The requesting person is responsible for obtaining the investigative report from the submitting agency pursuant to paragraph (13) of subdivision (a) of Section 11167.5.

(f) If a person is listed in the Child Abuse Central Index only as a victim of child abuse, and that person is 18 years of age or older, that person may have his or her name removed from the index by making a written request to the Department of Justice. The request shall be notarized and include the person's name, address, social security number, and date of birth.

SEC. 3. Section 1.5 of this bill incorporates amendments to Section 11167.5 of the Penal Code proposed by both this bill and SB 644. 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 11167.5 of the Penal Code, and (3) this bill is enacted after SB 644, in which case Section 1 of this bill shall not become operative.

SEC. 4. Section 2.5 of this bill incorporates amendments to Section 11170 of the Penal Code proposed by both this bill and SB 644. 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 11170 of the Penal Code, and (3) this bill is enacted after SB 644, in which case Section 2 of this bill shall not become operative.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because in that regard this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction,

within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

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

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## CHAPTER 845

An act to add Section 676.9 to the Insurance Code, relating to insurance.

[Approved by Governor October 9, 1997. Filed with Secretary of State October 10, 1997.]

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

SECTION 1. Section 676.9 is added to the Insurance Code, to read:

676.9. (a) This section applies to policies covered by Sections 675 and 675.5.

(b) No insurer issuing policies subject to this section shall deny or refuse to accept an application, refuse to insure, refuse to renew, cancel, restrict, or otherwise terminate, or charge a different rate for the same coverage, on the basis that the applicant or insured person is, has been, or may be, a victim of domestic violence.

(c) Nothing in this section shall prevent an insurer subject to this section from taking any of the actions set forth in subdivision (b) on the basis of criteria not otherwise made invalid by this section or any other act, regulation, or rule of law. If discrimination by an 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.

(d) For purposes of this section, information that indicates that a person is, has been, or may be a victim of domestic violence is personal information within the meaning of Article 6.6 (commencing with Section 791) of Chapter 1 of Part 2.

(e) No insurer that issues policies subject to this section, and no person employed by or under contract with an insurer that issues policies subject to this section, shall request any information the insurer or person knows or reasonably should know relates to acts of domestic violence or an applicant's or insured's status as a victim of domestic violence, or make use of this information however obtained, except for the limited purpose of complying with legal obligations, verifying a person's claim to be a subject of domestic violence, or cooperating with a victim of domestic violence in seeking protection from domestic violence or facilitating the treatment of a domestic violence-related medical condition. This subdivision does not prohibit an insurer from asking an applicant or insured about a property and casualty claim, even if the claim is related to domestic violence, or from using information thereby obtained in evaluating and carrying out its rights and duties under the policy, to the extent otherwise permitted by this section and other applicable law.

(f) As used in this section, "domestic violence" means domestic violence as defined in Section 6211 of the Family Code.

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## CHAPTER 846

An act to amend Sections 264.2 and 679.04 of the Penal Code, relating to crimes, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 9, 1997. Filed with Secretary of State October 10, 1997.]

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

SECTION 1. Section 264.2 of the Penal Code is amended to read:

264.2. (a) Whenever there is an alleged violation of Section 261, 261.5, 262, 286, 288a, or 289, the law enforcement officer assigned to the case shall immediately provide the victim of the crime with the "Victims of Domestic Violence" card, as specified in paragraph (5) of subdivision (i) of Section 13701 of the Penal Code.

(b) (1) The law enforcement officer, or his or her agency, shall immediately notify the local rape victim counseling center whenever a victim of an alleged violation of Section 261, 261.5, 262, 286, 288a, or 289 is transported to a hospital for any medical evidentiary or physical examination. The victim shall have the right to have a sexual assault victim counselor, as defined in Section 1035.2 of the Evidence Code, and at least one other support person of the victim's choosing present at any medical evidentiary or physical examination.

(2) Prior to the commencement of any initial medical evidentiary or physical examination arising out of a sexual assault, a victim shall be notified orally or in writing by the attending medical provider that

the victim has the right to have present a sexual assault victim counselor and at least one other support person of the victim's choosing.

(3) The hospital may verify with the law enforcement officer, or his or her agency, whether the local rape victim counseling center has been notified, upon the approval of the victim.

SEC. 2. Section 679.04 of the Penal Code is amended to read:

679.04. (a) A victim of sexual assault, as defined in subdivisions (a) and (b) of Section 11165.1, or spousal rape has the right to have victim advocates and at least one other support person of the victim's choosing present at any interview by law enforcement authorities, district attorneys, or defense attorneys. As used in this section, "victim advocate" means a sexual assault victim counselor, as defined in Section 1035.2 of the Evidence Code, or a victim advocate working in a center established under Article 2 (commencing with Section 13835) of Chapter 4 of Title 6 of Part 4.

(b) Prior to the commencement of any initial law enforcement interview or district attorney contact pertaining to any criminal action arising out of a sexual assault, a victim of sexual assault or spousal rape shall be notified orally or in writing by the attending law enforcement authority or district attorney that the victim has the right to have victim advocates, as well as a support person of the victim's choosing, present at the interview or contact. This subdivision applies to investigators and agents employed or retained by law enforcement or the district attorney.

(c) An initial investigation by law enforcement at the crime scene to determine whether a crime has been committed and the identity of the suspects shall not constitute a law enforcement interview for purposes of this section.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs 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. 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:

The failure to provide notice to a victim of sexual assault that he or she has a right to have a certified sexual assault advocate as well as a support person of the victim's choosing present at specified

examinations, interviews, or attorney contacts relating to the sexual assault has led to many unfortunate situations. In order to remedy this situation as soon as possible, it is necessary that this act go into immediate effect.

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## CHAPTER 847

An act to amend Sections 136.2 and 1269c of the Penal Code, relating to domestic violence.

[Approved by Governor October 9, 1997. Filed with
Secretary of State October 10, 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. A finding of contempt shall not 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) 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. All interested parties shall receive a copy of those orders. 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.

(i) The Judicial Council shall adopt forms for orders under this section.

SEC. 1.5. 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. A finding of contempt shall not 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. All interested parties shall receive a copy of those orders. 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.

SEC. 2. Section 1269c of the Penal Code is amended to read:

1269c. If a defendant is arrested without a warrant for a bailable felony offense or for the misdemeanor offense of violating a domestic violence restraining order, and a peace officer has reasonable cause to believe that the amount of bail set forth in the schedule of bail for that offense is insufficient to assure defendant's appearance or to assure the protection of a victim, or family member of a victim, of domestic violence, 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, or his or her commissioner, in the county in which the offense is alleged to have been committed or having personal jurisdiction over the defendant, requesting an order setting a higher bail. The defendant, either personally or through his or her attorney, friend, or family member, also may make application to the magistrate for release on bail lower than that provided in the

schedule of bail or on his or her own recognizance. The magistrate or commissioner to whom the application is made is authorized to set bail in an amount that he or she deems sufficient to assure the defendant's appearance or to assure the protection of a victim, or family member of a victim, of domestic violence, and to set bail on the terms and conditions that he or she, in his or her discretion, deems appropriate, or he or she may authorize the defendant's release on his or her own recognizance. If, after the application is made, no order changing the amount of bail is issued within eight hours after booking, the defendant shall be entitled to be released on posting the amount of bail set forth in the applicable bail schedule.

SEC. 3. Section 1.5 of this bill incorporates amendments to Section 136.2 of the Penal Code proposed by both this bill and AB 340. 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 136.2 of the Penal Code, and (3) this bill is enacted after AB 340, in which case Section 1 of this bill shall not become operative.

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

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

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## CHAPTER 848

An act to add Section 1170.76 to the Penal Code, relating to sentencing.

[Approved by Governor October 9, 1997. Filed with Secretary of State October 10, 1997.]

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

SECTION 1. Section 1170.76 is added to the Penal Code, to read:

1170.76. The fact that a defendant who commits or attempts to commit a violation of Section 243.4, 245, 273.5, or 273.55, is or has been a member of the household of a minor or of the victim of the offense, or the defendant is a marital or blood relative of the minor or the victim, or the defendant or the victim is the natural parent, adoptive parent, stepparent, or foster parent of the minor, and the offense

contemporaneously occurred in the presence of, or was witnessed by, the minor shall be considered a circumstance in aggravation of the crime in imposing a term under subdivision (b) of Section 1170.

SEC. 3. The Legislature recommends that the Judicial Council revise Rule 421 of the California Rules of Court on or before June 1, 1998, to add provisions relating to circumstances in aggravation, as follows:

(a) Facts relating to the crime, whether or not charged or chargeable as enhancements, including the following facts:

(1) The crime involved great violence, great bodily harm, threat of great bodily harm, or other acts disclosing a high degree of cruelty, viciousness, or callousness.

(2) The defendant was armed with or used a weapon at the time of the commission of the crime.

(3) The victim was particularly vulnerable.

(4) The defendant induced others to participate in the commission of the crime or occupied a position of leadership or dominance over other participants in its commission.

(5) The defendant induced a minor to commit or assist in the commission of the crime.

(6) The defendant threatened witnesses, unlawfully prevented or dissuaded witnesses from testifying, suborned perjury, or in any other way illegally interfered with the judicial process.

(7) The defendant was convicted of other crimes for which consecutive sentences could have been imposed but for which concurrent sentences are being imposed.

(8) The manner in which the crime was carried out indicates planning, sophistication, or professionalism.

(9) The crime involved an attempted or actual taking or damage of great monetary value.

(10) The crime involved a large quantity of contraband.

(11) The defendant took advantage of a position of trust or confidence to commit the offense.

(12) There was a temporary restraining order, injunction, or other court order in effect, protecting the victim of the crime from the defendant.

(13) The victim was pregnant at the time of the offense, and the defendant knew or reasonably should have known of the victim's condition.

(b) Facts relating to the defendant, including the following facts:

(1) The defendant has engaged in violent conduct which indicates a serious danger to society.

(2) The defendant's prior convictions as an adult or sustained petitions in juvenile delinquency proceedings are numerous or of increasing seriousness.

(3) The defendant has served a prior prison term.

(4) The defendant was on probation or parole when the crime was committed.

(5) The defendant's prior performance on probation or parole was unsatisfactory.

(6) The defendant was subject to a temporary restraining order that protected the victim of the crime from the defendant.

(c) Any other facts statutorily declared to be circumstances in aggravation.

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## CHAPTER 849

An act to amend Sections 3004, 3011, 3020, 3040, 3161 and 3162 of the Family Code, relating to family law.

[Approved by Governor October 9, 1997. Filed with Secretary of State October 10, 1997.]

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

SECTION 1. Section 3004 of the Family Code is amended to read:

3004. "Joint physical custody" means that each of the parents shall have significant periods of physical custody. Joint physical custody shall be shared by the parents in such a way so as to assure a child of frequent and continuing contact with both parents, subject to Sections 3011 and 3020.

SEC. 2. Section 3011 of the Family Code is amended to read:

3011. In making a determination of the best interest of the child in a proceeding described in Section 3021, the court shall, among any other factors it finds relevant, consider all of the following:

(a) The health, safety, and welfare of the child.

(b) Any history of abuse by one parent or any other person seeking custody against any of the following:

(1) Any child to whom he or she is related by blood or affinity or with whom he or she has had a caretaking relationship, no matter how temporary.

(2) The other parent.

(3) A parent, current spouse, or cohabitant, of the parent or person seeking custody, or a person with whom the parent or person seeking custody has a dating or engagement relationship.

As a prerequisite to the consideration of allegations of abuse, the court may require substantial independent corroboration, including, but not limited to, written reports by law enforcement agencies, child protective services or other social welfare agencies, courts, medical facilities, or other public agencies or private nonprofit organizations providing services to victims of sexual assault or domestic violence. As used in this subdivision, "abuse against a child" means "child abuse" as defined in Section 11165.6 of the Penal Code and abuse against any of the other persons described in paragraph (2) or (3) means "abuse" as defined in Section 6203 of this code.

(c) The nature and amount of contact with both parents.

(d) The habitual or continual illegal use of controlled substances or habitual or continual abuse of alcohol by either parent. Before considering these allegations, the court may first require independent corroboration, including, but not limited to, written reports from law enforcement agencies, courts, probation departments, social welfare agencies, medical facilities, rehabilitation facilities, or other public agencies or nonprofit organizations providing drug and alcohol abuse services. As used in this subdivision, "controlled substances" has the same meaning as defined in the California Uniform Controlled Substances Act, Division 10 (commencing with Section 11000) of the Health and Safety Code.

(e) (1) Where allegations about a parent pursuant to subdivision (b) or (d) have been brought to the attention of the court in the current proceeding, and the court makes an order for sole or joint custody to that parent, the court shall state its reasons in writing or on the record. In these circumstances, the court shall ensure that any order regarding custody or visitation is specific as to time, day, place, and manner of transfer of the child as set forth in subdivision (b) of Section 6323.

(2) The provisions of this subdivision shall not apply if the parties stipulate in writing or on the record regarding custody or visitation.

SEC. 3. Section 3020 of the Family Code is amended to read:

3020. (a) The Legislature finds and declares that it is the public policy of this state to assure that the health, safety, and welfare of children shall be the court's primary concern in determining the best interest of children when making any orders regarding the custody or visitation of children. The Legislature further finds and declares that the perpetration of child abuse or domestic violence in a household where a child resides is detrimental to the child.

(b) The Legislature finds and declares that it is the public policy of this state to assure that children have frequent and continuing contact with both parents after the parents have separated or dissolved their marriage, or ended their relationship, and to encourage parents to share the rights and responsibilities of child rearing in order to effect this policy, except where the contact would not be in the best interest of the child, as provided in Section 3011.

(c) Where the policies set forth in subdivisions (a) and (b) of this section are in conflict, any court's order regarding custody or visitation shall be made in a manner that ensures the health, safety, and welfare of the child and the safety of all family members.

SEC. 4. Section 3040 of the Family Code is amended to read:

3040. (a) Custody should be granted in the following order of preference according to the best interest of the child as provided in Sections 3011 and 3020:

(1) To both parents jointly pursuant to Chapter 4 (commencing with Section 3080) or to either parent. In making an order granting

custody to either parent, the court shall consider, among other factors, which parent is more likely to allow the child frequent and continuing contact with the noncustodial parent, consistent with Section 3011 and 3020, and shall not prefer a parent as custodian because of that parent's sex. The court, in its discretion, may require the parents to submit to the court a plan for the implementation of the custody order.

(2) If to neither parent, to the person or persons in whose home the child has been living in a wholesome and stable environment.

(3) To any other person or persons deemed by the court to be suitable and able to provide adequate and proper care and guidance for the child.

(b) This section establishes neither a preference nor a presumption for or against joint legal custody, joint physical custody, or sole custody, but allows the court and the family the widest discretion to choose a parenting plan that is in the best interest of the child.

SEC. 5. Section 3161 of the Family Code is amended to read:

3161. The purposes of a mediation proceeding are as follows:

(a) To reduce acrimony that may exist between the parties.

(b) To develop an agreement assuring the child close and continuing contact with both parents that is in the best interest of the child, consistent with Sections 3011 and 3020.

(c) To effect a settlement of the issue of visitation rights of all parties that is in the best interest of the child.

SEC. 6. Section 3162 of the Family Code is amended to read:

3162. (a) Mediation of cases involving custody and visitation concerning children shall be governed by uniform standards of practice adopted by the Judicial Council.

(b) The standards of practice shall include, but not be limited to, all of the following:

(1) Provision for the best interest of the child and the safeguarding of the rights of the child to frequent and continuing contact with both parents, consistent with Sections 3011 and 3020.

(2) Facilitation of the transition of the family by detailing factors to be considered in decisions concerning the child's future.

(3) The conducting of negotiations in such a way as to equalize power relationships between the parties.

(c) In adopting the standards of practice, the Judicial Council shall consider standards developed by recognized associations of mediators and attorneys and other relevant standards governing mediation of proceedings for the dissolution of marriage.

(d) The Judicial Council shall offer training with respect to the standards to mediators.

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## CHAPTER 850

An act to amend Section 116.230 of the Code of Civil Procedure, to amend Section 1852 of the Family Code, to amend Sections 26820.4, 26823, 26827, 26827.4, 26830, 26838, 26857, 26862, 27361, 68073, 68085, 68090.8, 68113, 68502.5, 68513, 72054, 72055, 72060, 76000, and 77003 of, to amend, repeal, and add Section 68547 of, to add Sections 26832.1, 26833.1, 26835.1, 26836.1, 26837.1, 26850.1, 26851.1, 26852.1, 26853.1, 26855.4, 27081.5, 68073.1, 68085.5, 68088, 72056.01, 76224, 77001, and 77009 to, to add Chapter 14 (commencing with Section 77600) to, Title 8 of, to repeal Article 4 (commencing with Section 77300) of Chapter 13 of Title 8 of, to add and repeal Sections 26826.01 and 77201 of, to repeal and add Section 71383 of, and to repeal and add Article 3 (commencing with Section 77200) of Chapter 13 of Title 8 of, the Government Code, to amend Sections 1463.001, 1463.005, 1463.007, 1463.009, and 1464 of, to add Sections 1170.45, 1463.010, and 1463.07 to, and to repeal Sections 1463.003 and 1463.01 of, the Penal Code, and to amend Section 42007 of, and to add Sections 11205.1 and 42007.1 to, the Vehicle Code, relating to trial court funding.

[Approved by Governor October 10, 1997. Filed with
Secretary of State October 10, 1997.]

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

SECTION 1. This act shall be known and may be cited as "the Lockyer-Isenberg Trial Court Funding Act of 1997."

SEC. 2. The Legislature finds and declares as follows:

(a) The judiciary of California is a separate and independent branch of government, recognized by the Constitution and statutes of this state as such.

(b) The Legislature has previously established the principle that the funding of trial court operations is most logically a function of the state. Such funding is necessary to provide uniform standards and procedures, economies of scale, and structural efficiency and simplification. This decision also reflects the fact that the overwhelming business of the trial courts is to interpret and enforce provisions of state law and to resolve disputes among the people of the State of California.

(c) Structural improvement will provide for an improved court system, a uniform and equitable court system and will, therefore, increase access to justice for the citizens of the State of California. The structural improvements outlined in the Trial Court Realignment and Efficiency Act of 1991, and subsequent measures, have outlined some of the improvements required.

(d) Many trial courts have made significant progress in efficiency through court coordination and in developing cost management and control systems through budget procedures and performance

standards. However, this progress is not uniform throughout the court system. The Legislature recognizes that the Judicial Council has adopted mandatory rules on court coordination and on the development of budget procedures and performance standards requiring more rapid progress in this area. The current bifurcated funding structure does not allow adequate financial planning for the courts, thereby instilling doubt as to the efficacy of new budget procedures or performance standards.

(e) The fiscal health of the judicial system, and the willingness and ability of the judiciary to adopt measures of efficiency and coordination, has a considerable impact on the quality of justice dispensed to the citizens of California.

(f) It is increasingly clear that the counties of California are no longer able to provide unlimited funding increases to the judiciary and, in some counties, financial difficulties and strain threaten the quality and timeliness of justice.

(g) The stated intent of the Legislature to assume the largest share of the funding of the trial courts has not been achieved, primarily due to the recent recession and the resulting limitation of state funds. However, there is a clear need to proceed as rapidly as possible toward the goal of full state funding of trial court operations and, accordingly, this measure is a logical and necessary step to achieve the result.

SEC. 3. The Legislature declares its intent to do each of the following:

(a) Provide state responsibility for funding of trial court operations commencing in the 1997–98 fiscal year.

(b) Provide that county contributions to trial court operations shall be permanently capped at the same dollar amount as that county provided to court operations in the 1994–95 fiscal year with adjustments to the cap, as specified.

(c) Provide that the State of California shall assume full responsibility for any growth in costs of trial court operations thereafter.

(d) Continue to define “court operations” as currently established in law; provided, however, that the Legislature recognizes that there remain issues regarding which items of expenditure are properly included within the definition of court operations. Therefore, the Legislature intends to reexamine this issue during the 1997–98 fiscal year, in the hopes of reflecting any agreed upon changes in subsequent legislation.

(e) Provide that the obligation of counties to contribute to trial court costs shall not be increased in any fashion by state budget action relating to the trial courts.

(f) Return to the counties of California the revenue generated from fines and forfeitures pursuant to Sections 27361 and 76000 of the Government Code, Sections 1463.001, 1463.005, 1463.007, 1463.009, 1463.07, and 1464 of the Penal Code, and Sections 42007 and 42007.1

of the Vehicle Code by the courts of each county. This return will allow counties the opportunity to obtain sufficient revenue to meet their obligation to the state.

(g) In adopting this plan, the Legislature intends to do all of the following:

(1) To provide that no personnel employed in the court system as of July 1, 1997, shall have their salary or benefits reduced as a result of this act.

(2) By January 1, 2001, to adopt a plan to transition all existing court employees into an appropriate employment status, recognizing the state assumption of trial court costs.

(3) To consider providing courts in each county the option for employees to transition to the status of employees of the state, the local court or, with the concurrence of the county, continuation of the status as county employees, and a mechanism for involvement of the local judiciary in the negotiations regarding compensation of court employees.

(h) Accelerate the pace of court coordination and efficiencies adopted by the Judicial Council and continue the development and implementation of comprehensive budget procedures and performance standards.

(i) Modify Section 68073 of the Government Code to protect counties from liability for state costs resulting from orders made under that section.

(j) Modify Section 68073 of the Government Code to continue the obligation of the counties to provide court facilities to judges and personnel in each county. Require the Judicial Council to report by October 30, 1998, on possible alternatives for the participation by the state in the cost of a new construction, remodeling, or renovation of trial court facilities.

(k) Require the Judicial Council to create a reserve fund of no less than 1 percent of the funds appropriated for trial courts, to be utilized by the Judicial Council to assist financially stressed courts, or those courts affected by natural disaster or courts with a heavily congested calendar that cannot reasonably be resolved by fully utilizing coordination or other court efficiencies and to promote and encourage local and statewide efforts toward efficiency and coordination.

(*l*) Acknowledge the need for strong and independent local court financial management, including encouraging the adoption by the Judicial Council of a Trial Courts Bill of Financial Management Rights, to be approved no later than January 1, 1998. This bill of management rights shall minimize the rules and regulations in the area of financial affairs to those sufficient to guarantee efficiency, but shall give strong preference to the need for local flexibility in the management of court financial affairs.

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

116.230. (a) A fee of twenty dollars ($20) shall be charged and collected for the filing of a claim if the number of claims previously filed by the party in each court within the previous 12 months is 12 or less; and a fee of thirty-five dollars ($35) shall be collected for the filing of any additional claims.

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

(c) The number of claims filed by a party during the previous 12 months shall be determined by a declaration by the party stating the number of claims so filed and submitted to the clerk with the current claim.

(d) Five dollars ($5) of the fees authorized in subdivision (a) shall be deposited upon collection in the special account in the county treasury established pursuant to subdivision (b) of Section 68085 of the Government Code, and transmitted therefrom monthly to the Controller for deposit in the Trial Court Trust Fund.

SEC. 5. Section 1852 of the Family Code is amended to read:

1852. (a) There is in the State Treasury the Family Law Trust Fund.

(b) Moneys collected by the state pursuant to subdivision (c) of Section 10605 of the Health and Safety Code, subdivision (a) of Section 26832 of the Government Code, and grants, gifts, or devises made to the state from private sources to be used for the purposes of this part shall be deposited into the Family Law Trust Fund.

(c) Moneys deposited in the Family Law Trust Fund shall be placed in an interest bearing account. Any interest earned shall accrue to the fund and shall be disbursed pursuant to subdivision (d).

(d) Money deposited in the Family Law Trust Fund shall be disbursed for purposes specified in this part and for other family law related activities.

(e) Moneys deposited in the Family Law Trust Fund shall be administered by the Judicial Council. The Judicial Council may, with appropriate guidelines, delegate the administration of the fund to the Administrative Office of the Courts.

(f) Any moneys in the Family Law Trust Fund that are unencumbered at the end of the fiscal year are automatically appropriated to the Family Law Trust Fund of the following year.

(g) In order to defray the costs of collection of these funds, pursuant to this section, the local registrar, county clerk, or county recorder may retain a percentage of the funds collected, not to exceed 10 percent of the fee payable to the state pursuant to subdivision (c) of Section 10605 of the Health and Safety Code.

SEC. 6. Section 26820.4 of the Government Code is amended to read:

26820.4. The total fee for filing of the first paper in a civil action or proceeding in the superior court, except an adoption proceeding, shall be one hundred eighty-five dollars ($185).

This section applies to the initial complaint, petition, or application, and the papers transmitted from another court on the transfer of a civil action or proceeding, but does not include documents filed pursuant to Section 491.150, 704.750, or 708.160 of the Code of Civil Procedure.

SEC. 7. Section 26823 of the Government Code is amended to read:

26823. (a) When the venue in a case is changed, the fee for making up and transmitting the transcript and papers is twenty-three dollars ($23) and a further sum equal to the total fee for filing in the court to which the case is transferred. The clerk shall transmit the total filing fee with the papers in the case to the clerk or judge of the court to which the case is transferred.

(b) Notwithstanding Section 68085, fourteen dollars ($14) of the fee authorized in this section shall be deposited in the county general fund for use as county general fund revenue.

SEC. 8. Section 26826.01 is added to the Government Code, to read:

26826.01. (a) The fee for filing an amended complaint or amendment to a complaint in a civil action or proceeding in the superior court is seventy-five dollars ($75).

(b) The fee for filing a cross-complaint, amended cross-complaint, or amendment to a cross-complaint in a civil action or proceeding in the superior court is seventy-five dollars ($75).

(c) A party shall not be required to pay the fee provided by this section for an amended complaint, amendment to a complaint, amended cross-complaint, or amendment to a cross-complaint more than one time in any action.

(d) The fee provided by this section shall not apply to any of the following:

(1) An amended pleading or amendment to a pleading ordered by the court to be filed.

(2) An amended pleading or amendment to a pleading that only names previously fictitiously named defendants.

(e) This section shall become inoperative on July 1, 2000, and, as of January 1, 2001, is repealed, unless a later enacted statute, that becomes effective on or before January 1, 2001, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 9. Section 26827 of the Government Code is amended to read:

26827. (a) The total fee for filing the first petition for letters of administration, a petition for special letters of administration, a petition for letters testamentary, a first account of a testamentary trustee of a trust that is subject to the continuing jurisdiction of the court pursuant to Chapter 4 (commencing with Section 17300) of

Part 5 of Division 9 of the Probate Code, a petition for letters of guardianship, a petition for letters of conservatorship, a petition for compromise of a minor's claim, a petition pursuant to Section 13151 of the Probate Code, a petition pursuant to Section 13650 of the Probate Code (except as provided in Section 13652 of the Probate Code), or a petition to contest any will or codicil is one hundred eighty-five dollars ($185).

(b) The fee set forth in subdivision (a) shall also be charged for filing any subsequent petition of a type described in subdivision (a) in the same proceeding by a person other than the original petitioner.

SEC. 10. Section 26827.4 of the Government Code is amended to read:

26827.4. (a) The fee for filing a subsequent paper in a proceeding under the Probate Code which requires a court hearing is twenty-three dollars ($23), except for papers for proceedings required by any of the following:

(1) Section 10501 of the Probate Code.

(2) Accountings of trustees of testamentary trusts that are subject to the continuing jurisdiction of the court pursuant to Chapter 4 (commencing with Section 17300) of Part 5 of Division 9 of the Probate Code.

(3) Division 4 (commencing with Section 1400) of the Probate Code.

(b) Objections to any papers exempt from the fee imposed by this section are subject to the filing fee of twenty-three dollars ($23). This section does not apply to petitions filed pursuant to subdivision (b) of Section 26827.

(c) Notwithstanding Section 68085, fourteen dollars ($14) of the twenty-three dollar ($23) fee authorized in subdivisions (a) and (b) shall be deposited in the county general fund for use as county general fund revenue.

SEC. 11. Section 26830 of the Government Code is amended to read:

26830. (a) Except as provided in subdivisions (b) and (c), the fee for filing any notice of motion, or any other paper requiring a hearing subsequent to the first paper, or any notice of intention to move for a new trial of any civil action or special proceeding, or an application for renewal of a judgment, is twenty-three dollars ($23).

However, there shall be no fee for filing any of the following:

(1) An amended notice of motion.

(2) A memorandum that a civil case is at issue.

(3) A hearing on a petition for emancipation of a minor.

(4) Default hearings.

(5) A show-cause hearing on a petition for an injunction prohibiting harassment.

(6) A show-cause hearing on an application for an order prohibiting domestic violence.

(7) A show-cause hearing on writs of review, mandate, or prohibition.

(8) A show-cause hearing on a petition for a change of name.

(9) A hearing to compromise a claim of a minor or an insane or incompetent person.

(b) The fee for filing a motion for summary judgment or summary adjudication of issues is one hundred dollars ($100).

(c) The fee for the filing of any motion in small claims court matters is fourteen dollars ($14), which shall be deposited in the county general fund for use as county general fund revenue.

(d) Notwithstanding Section 68085, fourteen dollars ($14) of the twenty-three dollar ($23) fee authorized in subdivision (a) and the one hundred dollar ($100) fee established by subdivision (b) shall be deposited in the county general fund for use as county general fund revenue.

SEC. 12. Section 26832.1 is added to the Government Code, to read:

26832.1. (a) Notwithstanding the fee authorized by Section 26833.1, a fee of five dollars ($5) shall be paid by a public agency applicant for a certified copy of a marriage dissolution record that the agency is required to obtain in the ordinary course of business. A fee of ten dollars ($10) shall be paid by any other applicant for a certified copy of a marriage dissolution record. Five dollars ($5) of any ten dollar ($10) fee shall be transmitted monthly by each clerk of the court to the state for deposit into the Family Law Trust Fund as provided by Section 1852 of the Family Code.

(b) As used in this section, "marriage dissolution record" means the judgment.

(c) Notwithstanding Section 68085, three dollars ($3) of the five dollar ($5) fee and three dollars ($3) of the ten dollar ($10) fee authorized in subdivision (a) shall be deposited in the county general fund for use as county general fund revenue.

SEC. 13. Section 26833.1 is added to the Government Code, to read:

26833.1. The fee for certifying a copy of any paper, record, or proceeding on file in the office of the clerk of any court is six dollars ($6). For every certificate the fee for which is not otherwise fixed, the fee is six dollars ($6). Notwithstanding Section 68085, one dollar and seventy-five cents ($1.75) of the fee authorized in this section shall be deposited in the county general fund for use as county general fund revenue.

SEC. 14. Section 26835.1 is added to the Government Code, to read:

26835.1. (a) The clerk of the court shall collect a fee of six dollars ($6) per signature for any document that is required to be authenticated pursuant to court order.

(b) Each document authenticated by the county clerk shall contain the following statement:

"________, County Clerk and ex officio Clerk of the Superior Court, in and for the County of ________, State of California. Signed pursuant to court order dated ________ in the matter of ________ petitioner v. ________, respondent, Case No. ________."

(c) Notwithstanding Section 68085, two dollars ($2) of the fee authorized by subdivision (a) shall be deposited in the county general fund for use as county general fund revenue.

SEC. 15. Section 26836.1 is added to the Government Code, to read:

26836.1. For every certificate the fee for which is not otherwise fixed, the fee is six dollars ($6). Notwithstanding Section 68085, one dollar and seventy-five cents ($1.75) of the fee authorized in this section shall be deposited in the county general fund for use as county general fund revenue.

SEC. 16. Section 26837.1 is added to the Government Code, to read:

26837.1. For comparing with the original on file in the office of the clerk of any court, the copy of any paper, record, or proceeding prepared by another and presented for the clerk's certificate, the fee is one dollar ($1) per page, in addition to the fee for the certificate. Notwithstanding Section 68085, fifty cents ($0.50) of the fee authorized in this section shall be deposited in the county general fund for use as county general fund revenue.

SEC. 17. Section 26838 of the Government Code is amended to read:

26838. The fee for a certificate required by courts of appeal or the Supreme Court on filing a notice of motion prior to the filing of the record on appeal in the reviewing court is twenty-three dollars ($23). Notwithstanding Section 68085, fourteen dollars ($14) of the fee authorized in this section shall be deposited in the county general fund for use as county general fund revenue.

SEC. 18. Section 26850.1 is added to the Government Code, to read:

26850.1. For filing and indexing all papers for which a charge is not elsewhere provided, other than papers filed in actions or special proceedings, official bonds, or certificates of appointment, the fee is six dollars ($6). Notwithstanding Section 68085, two dollars and twenty-five cents ($2.25) of the fee authorized in this section shall be deposited in the county general fund for use as county general fund revenue.

SEC. 19. Section 26851.1 is added to the Government Code, to read:

26851.1. For either recording or registering any license or certificate or issuing any certificate, or both, in connection with a license, required by law for which a charge is not otherwise prescribed, the fee is six dollars ($6). Notwithstanding Section 68085, two dollars and twenty-five cents ($2.25) of the fee authorized in this

section shall be deposited in the county general fund for use as county general fund revenue.

SEC. 20. Section 26852.1 is added to the Government Code, to read:

26852.1. The fee for each certificate to the official capacity of any public official is six dollars ($6). Notwithstanding Section 68085, two dollars and twenty-five cents ($2.25) of the fee authorized in this section shall be deposited in the county general fund for use as county general fund revenue.

SEC. 21. Section 26853.1 is added to the Government Code, to read:

26853.1. The fee for taking an affidavit, except in criminal cases or adoption proceedings, is six dollars ($6). Notwithstanding Section 68085, two dollars and twenty-five cents ($2.25) of the fee authorized in this section shall be deposited in the county general fund for use as county general fund revenue.

SEC. 22. Section 26855.4 is added to the Government Code, to read:

26855.4. The fee for taking acknowledgment of any deed or other instrument, including the certificate, is six dollars ($6) for each signature. Notwithstanding Section 68085, two dollars and twenty-five cents ($2.25) of the fee authorized in this section shall be deposited in the county general fund for use as county general fund revenue.

SEC. 23. Section 26857 of the Government Code is amended to read:

26857. No fee shall be charged by the clerk for service rendered to a defendant in any criminal action or, to the petitioner in any adoption proceeding except as provided in Section 103730 of the Health and Safety Code, nor shall any fees be charged for any proceeding brought pursuant to Section 7841 of the Family Code to declare a minor free from parental custody or control. No fee shall be charged by the clerk for service rendered to any municipality or county in the state, or to the national government, nor for any service relating thereto.

SEC. 24. Section 26862 of the Government Code is amended to read:

26862. In any county in which there is a family conciliation court, or in which counties have by contract established joint family conciliation court services, a fee of twenty dollars ($20) shall be paid to the clerk of the court at the time of filing a motion, order to show cause, or other proceeding seeking to modify or enforce that portion of any judgment or order entered in this state or any other state which orders or awards the custody of a minor child or children or which specifies the rights of any party to the proceeding to visitation of a minor child or children. Notwithstanding Section 68085, fifteen dollars ($15) of the fee authorized in this section shall be deposited

in the county treasury and shall be used exclusively to pay the costs of maintaining the family conciliation court.

SEC. 25. Section 27081.5 is added to the Government Code, to read:

27081.5. Jury fees shall not be returned in the event the action or proceeding is dismissed or the trial by jury is waived after deposit of jury fees.

SEC. 26. Section 27361 of the Government Code is amended to read:

27361. (a) The fee for recording and indexing every instrument, paper, or notice required or permitted by law to be recorded is four dollars ($4) for recording the first page and three dollars ($3) for each additional page, except the recorder may charge additional fees as follows:

(1) If the printing on printed forms is spaced more than nine lines per vertical inch or more than 22 characters and spaces per inch measured horizontally for not less than 3 inches in one sentence, the recorder shall charge one dollar ($1) extra for each page or sheet on which printing appears excepting, however, the extra charge shall not apply to printed words which are directive or explanatory in nature for completion of the form or on vital statistics forms. Fees collected under this paragraph are not subject to subdivision (b) or (c).

(2) If a page or sheet does not conform with the dimensions described in subdivision (a) of Section 27361.5, the recorder shall charge three dollars ($3) extra per page or sheet of the document. The extra charge authorized under this paragraph shall be available solely to support, maintain, improve, and provide for the full operation for modernized creation, retention, and retrieval of information in each county's system of recorded documents. Fees collected under this paragraph are not subject to subdivision (b) or (c).

(b) One dollar ($1) of each three dollar ($3) fee for each additional page shall be transmitted by the county auditor monthly to the Controller for deposit in the Trial Court Trust Fund established pursuant to Section 68085.

(c) Notwithstanding Section 68085, one dollar ($1) for recording the first page and one dollar ($1) for each additional page shall be available solely to support, maintain, improve, and provide for the full operation for modernized creation, retention, and retrieval of information in each county's system of recorded documents.

SEC. 27. Section 68073 of the Government Code is amended to read:

68073. (a) Commencing July 1, 1997, and each year thereafter, no county or city and county shall be responsible to provide funding for "court operations" as defined in Section 77003 and Rule 810 of the California Rules of Court as it read on July 1, 1996.

(b) Commencing as of July 1, 1996, and each year thereafter, each county or city and county shall be responsible for providing necessary and suitable facilities for judicial and court support positions created prior to July 1, 1996. In determining whether facilities are necessary and suitable, the reasonable needs of the court and the fiscal condition of the county or city and county shall be taken into consideration.

(c) If a county or city and county fails to provide necessary and suitable facilities as described in subdivision (b), the court shall give notice of a specific deficiency. If the county or city and county then fails to provide necessary and suitable facilities pursuant to this section, the court may direct the appropriate officers of the county or city and county to provide the necessary and suitable facilities. The expenses incurred, certified by the judge or judges to be correct, are a charge against the county or city and county treasury and shall be paid out of the general fund.

(d) Prior to the construction of new court facilities or the alteration, remodeling, or relocation of existing court facilities, a county or city and county shall solicit the review and comment of the judge or judges of the court affected regarding the adequacy and standard of design, and that review and comment shall not be disregarded without reasonable grounds.

(e) For purposes of this section, "facilities" means: (1) rooms for holding superior and municipal court, (2) the chambers of the judges of the court, (3) rooms for the attendants of the court, and (4) sufficient heat, ventilation, air-conditioning, light, and fixtures for those rooms and chambers.

(f) This section shall not be construed as authorizing a county, a city and county, a court, or the state to supply to the official reporters of the courts stenography, stenotype, or other shorthand machines; nor as authorizing the supply to the official reporters of the courts, for use in the preparation of transcripts, of typewriters, transcribing equipment, supplies, or other personal property.

SEC. 28. Section 68073.1 is added to the Government Code, to read:

68073.1. (a) All furniture, furnishings, and equipment used solely by a trial court on June 30, 1997, shall become the property of the court unless the county is prohibited from transferring title by a contract, agreement, covenant, or other provision in the law.

(b) Any other furniture, furnishings, or equipment made available by the county or city and county for use by a court on June 30, 1997, shall continue to be made available to the court, unless otherwise agreed in writing by the court and the county or city and county.

(c) The court shall assume all responsibility for any furniture, furnishing, and equipment for which title is transferred to the court or that continues to be made available for use by a court pursuant to this section, including the fiscal responsibility for any rental or lease

obligation, the repair, maintenance, and replacement of such furniture, furnishing, and equipment.

SEC. 29. 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 in four installments for the purpose of funding trial court operations, as defined in Section 77003.

(2) The quarterly apportionment payments shall be made by the Controller. For fiscal year 1997–98, the Controller shall make the first quarterly apportionment payment within 10 days of the operative date of this section, with subsequent payments due on October 15, January 15, and April 15. In subsequent years, payments shall be due on July 15, October 15, January 15, and April 15.

(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, 26823, 26826, 26826.01, 26827, 26827.4, 26830, 26831, 26832.1, 26833.1, 26835.1, 26836.1, 26837.1, 26838, 26850.1, 26851.1, 26852.1, 26853.1, 26855.4, 26862, 27081.5, subdivision (b) of Section 27361, and Sections 68086, 72055, 72056, 72056.01, and 72060.

If any of the fees provided for in this subdivision are partially waived by court order, and the fee is to be divided between the Trial Court Trust Fund and any other fund, the amount of the partial waiver shall be deducted from the amount to be distributed to each fund in the same proportion as the amount of each distribution bears to the total amount of the fee.

(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. This section also does not apply to fees collected pursuant to subdivisions (a) and (c) of Section 27361.

(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 or city and 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 or city and county in accordance with this section shall be considered delinquent, and subject to applicable penalties.

(h) 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 courts 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.

(i) The fourth quarterly payment from the Trial Court Trust Fund for the 1996–97 fiscal year shall be made on or before August 31, 1997.

SEC. 30. Section 68085.5 is added to the Government Code, to read:

68085.5. (a) Notwithstanding Section 68085 and pursuant to appropriation by the Legislature, the Judicial Council may allocate unexpended funds in the Trial Court Trust Fund, or any other funds available for allocation, for the 1997–98 fiscal year for trial court facilities renovation, repair, and maintenance projects approved by the Judicial Council subject to the conditions in subdivision (d). The amount allocated pursuant to this section shall not exceed five million dollars ($5,000,000).

(b) The Judicial Council is authorized to allocate moneys from the funds specified in subdivision (a) for such projects as may be approved by the Judicial Council, and shall be paid to the county therefor by the Controller.

(c) Notwithstanding Section 68085 and pursuant to appropriation by the Legislature, beginning in the 1998–99 fiscal year and each year thereafter, if the county retained share of any fines and forfeitures collected by the trial courts of a county that receives funds pursuant to subdivision (a) exceeds the fines and forfeitures collected during the 1994–95 fiscal year, the excess fines and forfeitures which would otherwise be retained by the county shall instead be deposited in the Trial Court Trust Fund up to the amount of any allocation made pursuant to this section.

(d) Projects approved by the Judicial Council pursuant to this section shall meet the following conditions:

(1) The county has an environmental impact review report certified if it is required for the project.

(2) The county board of supervisors has completed and approved the plans and specifications for the project.

(3) The county has completed the architectural design through a request for proposal process for the project.

(4) The county has completed any update of the justice facility master plan that is necessary.

(5) The county has already completed a competitive bid process for the project.

(6) The county has completed any and all land acquisition, including all necessary condemnation and relocation proceedings, for the project.

(7) The county has received Board of Corrections approval for any holding facilities.

(e) Subdivisions (a), (b), and (d) shall become inoperative on July 1, 2001. Subdivision (c) shall become inoperative when all funds allocated to any county pursuant to this section have been repaid.

SEC. 31. Section 68088 is added to the Government Code, to read:

68088. The Judicial Council may provide by rule of court for racial, ethnic, and gender bias, and sexual harassment training for judges, commissioners, and referees.

SEC. 32. Section 68090.8 of the Government Code is amended to read:

68090.8. (a) (1) The Legislature finds that the management of civil and criminal cases, including traffic cases, and the accounting for funds in the trial courts requires these courts to implement appropriate levels of automation.

(2) The purpose of this section is to make a fund available for the development of automated accounting, automated data collection through case management systems, and automated case-processing systems for the trial courts, together with funds to train operating personnel, and for the maintenance and enhancement of the systems.

(3) Automated data collection shall provide the foundation for planning, research, and evaluation programs that are generated from within and outside of the judicial branch. This system shall be a resource to the courts, the Judicial Council and its committees, the Administrative Office of the Courts, the Legislature, the Governor, and the public. During the developmental stage and prior to the implementation of the system, the Legislature shall make recommendations to the Judicial Council as to the breadth and level of detail of the data to be collected.

(b) Prior to making any other required distribution, the county treasurer shall transmit 2 percent of all fines, penalties, and forfeitures collected in criminal cases, including, but not limited to, moneys collected pursuant to Chapter 12 (commencing with Section 76000) of Title 8 of this code, Section 13003 of the Fish and Game Code, Section 11502 of the Health and Safety Code, and Chapter 1 (commencing with Section 1427) of Title 11 of Part 2 of the Penal Code, into the Trial Court Improvement Fund established pursuant to Section 77209, to be used exclusively to pay the costs of automating

trial court recordkeeping systems. These systems shall meet Judicial Council performance standards, including production of reports as needed by the state, the counties, and local governmental entities.

SEC. 33. Section 68113 of the Government Code is amended to read:

68113. (a) The superior and municipal courts in each county shall submit a report to the Judicial Council on progress towards achieving the cost reduction goals associated with the coordination plans and factors impacting the cost of court operations and the collection of revenues. The report shall also include financial information on expenditures for court operations and revenues according to a uniform chart of accounts adopted by the Judicial Council. The reports shall be submitted quarterly on or before the first day of the third month following the end of the quarter, except the fourth-quarter report shall be submitted on the first day of the fourth month following the end of the fourth quarter.

(b) For purposes of the reporting requirements of this section, a court or courts in a county may petition the Judicial Council to permit division of the court or courts into smaller administrative units corresponding to the organization of the court or courts under a coordination plan where reporting courtwide would impose an undue burden because of the number of judges or the physical location of the divisions of the court or courts.

(c) The Judicial Council shall submit a report to the Legislature on or before February 1 following the end of each fiscal year setting forth all of the following:

(1) The revenues and expenditures for each superior and municipal court in the state and statewide totals.

(2) A summary of the savings achieved by the courts in each county and statewide.

(3) Factors impacting the cost of court operations and the collection of revenues.

SEC. 33.2. Section 68502.5 of the Government Code is amended to read:

68502.5. (a) The Judicial Council shall provide by rule for the appointment of a standing Trial Court Budget Commission and the deadlines for meeting its various responsibilities. Under the direction and with the approval of the Judicial Council, the commission shall have the authority to:

(1) Receive budget requests from the trial courts. Trial courts shall send to the county board of supervisors a copy of their proposed budgets and any revisions or appeals at the time their budget requests are submitted to the Trial Court Budget Commission, pursuant to this section. The counties may submit timely comments to the commission regarding the contents of the proposed budgets of their respective trial courts. The commission shall consider the counties' comments when determining appropriate budgets for the courts.

(2) Review the trial courts' budget requests and evaluate them against performance criteria established by the Judicial Council by which a court's performance, level of coordination, and efficiency can be measured.

(3) Annually recommend to the Judicial Council for its approval the projected cost in the subsequent fiscal year of court operations as defined in Section 77003 for each trial court. This estimation shall serve as the basis for court budgets, which shall be developed programmatically by court function, as approved by the Judicial Council, for comparison purposes and to delineate the funding responsibilities.

(4) Annually prepare a recommended schedule for the allocation of moneys to individual courts and a recommended overall trial court budget for approval by the Judicial Council and forwarding to the Governor for inclusion in the Governor's proposed State Budget. The recommended schedule shall be based on the performance criteria established pursuant to paragraph (2) and on a minimum standard established by the Judicial Council for the operation and staffing of all trial court operations. This minimum standard shall be modeled on court operations using all reasonable and available measures to increase court efficiency and coordination. The schedule of allocations shall assure that all trial courts receive funding for the minimum operating and staffing standards before funding operating and staffing requests above the minimum standards, and shall include incentives and rewards for any trial court's implementation of efficiencies and cost saving measures.

(5) Reallocate funds in accordance with Judicial Council rules during the course of the fiscal year to ensure equal access to the trial courts by the public, to improve trial court operations, and to meet trial court emergencies. Reallocations shall be limited to 15 percent of that portion of any court's annual budget amount funded by the state. Neither the state nor the counties shall have any obligation to replace moneys appropriated for trial courts and reallocated pursuant to this paragraph.

(6) Allocate funds in the Trial Court Improvement Fund in accordance to Judicial Council rules to ensure equal access to trial courts by the public, to improve trial court operations, and to meet trial court emergencies.

(7) Upon approval of the trial courts' budget by the Legislature, prepare during the course of the fiscal year an allocation schedule for quarterly payments to the counties, consistent with Sections 68085 and 77205.1, which shall be submitted to the Controller's office by the 10th day of the month in which payments are to be made.

(8) Establish rules, pursuant to the authority of the Judicial Council, regarding a court's authority to transfer trial court funding moneys from one functional category to another in order to address needs in any functional category.

(9) At the request of the presiding judge of a trial court, conduct an independent review of the funding level of the court to determine whether it is adequate to enable the court to discharge its statutory and constitutional responsibilities.

(10) From time to time, review the level of fees charged by the courts for various services and prepare recommended adjustments for approval and forwarding to the Legislature by the Judicial Council.

(b) Members of the commission shall receive no compensation from the state for their services. When called into session, they shall receive their actual and necessary expenses for travel, board, and lodging, which shall be paid from the funds appropriated for this use. These expenses shall be appropriated in the manner as the Judicial Council directs, and shall be audited by the Controller in accordance with the rules of the State Board of Control.

SEC. 33.4. Section 68513 of the Government Code is amended to read:

68513. The Judicial Council shall provide for the uniform entry, storage, and retrieval of court data relating to civil cases in superior court by means provided for in this section, in addition to any other data relating to court administration, including all of the following:

(a) The category type of civil case, such as contract or personal injury-death-property damage by motor vehicle.

(b) The time from filing of the action to settlement.

(c) The type of settlement procedure, if any, which contributed to the settlement disposition.

(d) The character and amount of any settlement made as to each party litigant, but preserving the confidentiality of such information if the settlement is not otherwise public.

(e) The character and amount of any judgments rendered by court and jury trials for comparison with settled cases.

(f) The extent to which damages prayed for compare to settlement or judgment in character and amount.

(g) The extent to which collateral sources have contributed, or will contribute, financially to satisfaction of the judgment or settlement.

Provision for the uniform entry, storage, and retrieval of court data may be by use of litigant statements or forms, if available, or by collection and analysis of statistically reliable samples.

The Judicial Council shall report to the Legislature on or before January 1, 1998, and annually thereafter on the uniform entry, storage, and retrieval of court data as provided for in this section. The Legislature shall evaluate and adjust the level of funds available to pay the costs of automating trial court recordkeeping systems, pursuant to Section 68090.8, for noncompliance with the requirements of this section.

SEC. 33.6. Section 68547 of the Government Code is amended to read:

68547. (a) For the purposes of this article, a judge is deemed to serve or sit under assignment on each day during which it is necessary for him or her on account of the assignment to serve in a substantial way on the court to which assigned, to travel to or from such court, or to be absent from his or her residence. If a judge so serves under assignment in one or more courts during all days other than Saturdays, Sundays, and holidays in any period of 30 or more consecutive days (inclusive of Saturdays, Sundays, and holidays), he or she shall be deemed also to have served or sat in such court or courts on all Saturdays, Sundays, and holidays during or immediately preceding that period.

(b) A judge of a municipal court is deemed to have served under assignment in the superior court on any day when both of the following applies:

(1) A cross-assignment issued by the Chief Justice is in effect and the judge's workload is assigned pursuant to a judicial and administrative coordination plan approved by the Judicial Council pursuant to procedures set forth in rules of court and consistent with Section 68112.

(2) The Judicial Council has certified that cases in the court's jurisdiction are assigned pursuant to a uniform countywide or regional system for assignment of cases among superior and municipal courts which maximizes the utilization of all judicial officers in that county or region.

(c) The Judicial Council shall adopt rules as necessary to implement this section, including criteria for approval of judicial and administrative coordination plans.

(d) If a judge who serves his or her court on a part-time basis has completed the business of the home court for all days affected by any assignment, compensation attributable to the home court shall only be deducted from the amounts to be paid pursuant to Section 68540.7 for the days the judge is serving on assignment to the extent necessary to limit the assigned judge's total judicial compensation for the month to the amount earned by a regular judge of the court to which the judge is assigned.

(e) This section shall be repealed on January 1, 1999, unless a later enacted statute enacted before that date extends or deletes that date.

SEC. 33.8. Section 68547 is added to the Government Code, to read:

68547. (a) For the purposes of this article, a judge or justice is deemed to serve or sit under assignment on each day during which it is necessary for him or her on account of the assignment to serve on the court to which assigned, to travel to or from such court, or to be absent from his or her residence. If a judge so serves under assignment in one or more courts during all days other than Saturdays, Sundays, and holidays in any period of 30 or more consecutive days (inclusive of Saturdays, Sundays, and holidays), he or she shall be deemed also to have served or sat in such court or

courts on all Saturdays, Sundays, and holidays during or immediately preceding that period.

If a judge who serves his or her court on a part-time basis has completed the business of the home court for all days affected by any assignment, compensation attributable to the home court shall only be deducted from the amounts to be paid pursuant to Section 68540.7 for the days the judge is serving on assignment to the extent necessary to limit the assigned judge's total judicial compensation for the month to the amount earned by a regular judge of the court to which the judge is assigned.

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

SEC. 34. Section 71383 of the Government Code is repealed.

SEC. 35. Section 71383 is added to the Government Code, to read:

71383. As used in Section 71002, "board of supervisors" means county or city and county.

SEC. 36. Section 72054 of the Government Code is amended to read:

72054. Except as otherwise provided by law, the clerk of the court shall charge the fees prescribed by this article, and the fees prescribed by Sections 26823, 26828, 26829, 26830, 26831, 26832.1, 26833.1, 26834, 26836.1, 26837.1, 26839, 26850.1, 26851.1, 26852.1, 26853.1, 26854, 26855.4, and 26863 for all services to be performed.

SEC. 37. Section 72055 of the Government Code is amended to read:

72055. The total fee for filing of the first paper in a civil action or proceeding in the municipal court, shall be ninety dollars ($90), except that in cases where the amount demanded, excluding attorney's fees and costs, is ten thousand dollars ($10,000) or less, the fee shall be eighty-three dollars ($83). The amount of the demand shall be stated on the first page of the paper immediately below the caption.

This section applies to the initial complaint, petition, or application, and any papers transmitted from another court on the transfer of a civil action or proceeding, but does not include documents filed pursuant to Section 491.150, 704.750, or 708.160 of the Code of Civil Procedure.

The term "total fee" as used in this section and Section 72056 includes any amount allocated to the Judges' Retirement Fund pursuant to Section 72056.1, any automation fee imposed pursuant to Section 68090.7, any construction fee imposed pursuant to Section 76238, and the law library fee established pursuant to Article 2 (commencing with Section 6320) of Chapter 5 of Division 3 of the Business and Professions Code. The term "total fee" as used in Section 72056 includes any dispute resolution fee imposed pursuant to Section 470.3 of the Business and Professions Code. The term "total fee" as used in this section also includes any dispute resolution fee imposed pursuant to Section 470.3 of the Business and Professions

Code, but the board of supervisors of each county may exclude any portion of this dispute resolution fee from the term "total fee."

The fee shall be waived in any action for damages against a defendant, based upon the defendant's commission of a felony offense, upon presentation to the clerk of the court of a certified copy of the abstract of judgment of conviction of the defendant of the felony giving rise to the claim for damages. If the plaintiff would have been entitled to recover those fees from the defendant had they been paid, the court may assess the amount of the waived fees against the defendant and order the defendant to pay that sum to the county.

SEC. 38. Section 72056.01 is added to the Government Code, to read:

72056.01. (a) The fee for filing an amended complaint or amendment to a complaint in a civil action of proceeding in the municipal court is forty-five dollars ($45).

(b) The fee for filing a cross-complaint, amended cross-complaint or amendment to a cross-complaint in a civil action or proceeding in the municipal court is forty-five dollars ($45).

(c) A party shall not be required to pay the fee provided by this section for an amended complaint, amendment to a complaint, amended cross-complaint or amendment to a cross-complaint more than one time in any action.

(d) The fee provided by this section shall not apply to either of the following:

(1) An amended pleading or amendment to a pleading ordered by the court to be filed.

(2) An amended pleading or amendment to a pleading that only names previously fictitiously named defendants.

SEC. 39. Section 72060 of the Government Code is amended to read:

72060. The fee for a certificate and transmitting transcript and papers on appeal is ten dollars ($10). Notwithstanding Section 68085, six dollars ($6) of the fee authorized in this section shall be deposited in the county general fund for use as county general fund revenue.

SEC. 40. Section 76000 of the Government Code is amended to read:

76000. (a) In each county there shall be levied an additional penalty of seven dollars ($7) for every ten dollars ($10) or fraction thereof which shall be collected together with and in the same manner as the amounts established by Section 1464 of the Penal Code, upon every fine, penalty, or forfeiture imposed and collected by the courts for criminal offenses, including all offenses involving a violation of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code, except parking offenses subject to Article 3 (commencing with Section 40200) of Chapter 1 of Division 17 of the Vehicle Code. These moneys shall be taken from fines and forfeitures deposited with the county treasurer prior to any division pursuant to Section 1463 of the Penal Code.

The county treasurer shall deposit those amounts specified by the board of supervisors by resolution in one or more of the funds established pursuant to this chapter. However, deposits to these funds shall continue through whatever period of time is necessary to repay any borrowings made by the county on or before January 1, 1991, to pay for construction provided for in this chapter.

(b) In each authorized county, provided that the board of supervisors has adopted a resolution stating that the implementation of this subdivision is necessary to the county for the purposes authorized, with respect to each authorized fund established pursuant to Section 76100 or 76101, for every parking offense where a parking penalty, fine, or forfeiture is imposed, an added penalty of two dollars and fifty cents ($2.50) shall be included in the total penalty, fine, or forfeiture. Except as provided in subdivision (c), for each parking case collected in the courts of the county, the county treasurer shall place in each authorized fund two dollars and fifty cents ($2.50). These moneys shall be taken from fines and forfeitures deposited with the county treasurer prior to any division pursuant to Section 1462.3 or 1463.009 of the Penal Code. The judges of the county shall increase the bail schedule amounts as appropriate to reflect the added penalty provided for by this section. In those cities, districts, or other issuing agencies which elect to accept parking penalties, and otherwise process parking violations pursuant to Article 3 (commencing with Section 40200) of Chapter 1 of Division 17 of the Vehicle Code, that city, district, or issuing agency shall observe the increased bail amounts as established by the court reflecting the added penalty provided for by this section. Each agency which elects to process parking violations shall pay to the county treasurer two dollars and fifty cents ($2.50) for each fund for each parking penalty collected on each violation which is not filed in court. Those payments to the county treasurer shall be made monthly, and the county treasurer shall deposit all those sums in the authorized fund. No issuing agency shall be required to contribute revenues to any fund in excess of those revenues generated from the surcharges established in the resolution adopted pursuant to this chapter, except as otherwise agreed upon by the local governmental entities involved.

(c) The county treasurer shall deposit one dollar ($1) of every two dollars and fifty cents ($2.50) collected pursuant to subdivision (b) into the general fund of the county.

SEC. 41. Section 76224 is added to the Government Code, to read:

76224. Deposits to the Courthouse Construction Fund established in Merced County pursuant to Section 76100 shall continue through and including the 25th year after the initial year in which the surcharge is collected or the 25th year after any borrowings are made for any construction under that section, whichever comes later.

SEC. 42. Section 77001 is added to the Government Code, to read:

77001. On or before July 1, 1998, the Judicial Council shall promulgate rules which establish a decentralized system of trial court management. These rules shall ensure:

(a) Local authority and responsibility of trial courts to manage day-to-day operations.

(b) Countywide administration of the trial courts.

(c) The authority and responsibility of trial courts to manage all of the following, consistent with statute, rules of court, and standards of judicial administration:

(1) Annual allocation of funding, including the authority to move funding between functions or line items.

(2) Local personnel systems, including the promulgation of personnel policies.

(3) Processes and procedures to improve court operations and responsiveness to the public.

(4) The trial courts of each county shall establish the means of selecting presiding judges, assistant presiding judges, executive officers or court administrators, clerks of court, and jury commissioners.

(d) Trial court input into the Judicial Council budget process.

(e) Equal access to justice throughout California utilizing standard practices and procedures whenever feasible.

SEC. 43. Section 77003 of the Government Code is amended to read:

77003. (a) As used in this chapter, "court operations" means all of the following:

(1) Salaries, benefits, and public agency retirement contributions for superior and municipal court judges and for subordinate judicial officers. For purposes of this paragraph, "subordinate judicial officers" include all commissioner or referee positions created prior to July 1, 1997, including those commissioner positions created pursuant to Sections 69904, 70141, 70141.9, 70142.11, 72607, 73794, 74841.5, and 74908; and includes any staff who provide direct support to commissioners; but does not include commissioners or staff who provide direct support to the commissioners whose positions were created after July 1, 1997, unless approved by the Judicial Council, subject to availability of funding.

(2) The salary, benefits, and public agency retirement contributions for other court staff including all municipal court staff positions specifically prescribed by statute.

(3) Those marshals, constables, and sheriffs as the court deems necessary for court operations.

(4) Court-appointed counsel in juvenile court dependency proceedings and counsel appointed by the court to represent a minor pursuant to Chapter 10 (commencing with Section 3150) of Part 2 of Division 8 of the Family Code.

(5) Services and supplies relating to court operations.

(6) Collective bargaining under the Meyers-Milias-Brown Act with respect to court employees specified in Section 3501.5.

(7) Actual indirect costs for county and city and county general services attributable to court operations, but specifically excluding, but not limited to, law library operations conducted by a trust pursuant to statute; courthouse construction; district attorney services; probation services; indigent criminal defense; grand jury expenses and operations; and pretrial release services.

(b) However, "court operations" does not include collection enhancements as defined in Rule 810 of the California Rules of Court as it read on July 1, 1996.

SEC. 44. Section 77009 is added to the Government Code, to read:

77009. (a) For the purposes of funding trial court operations, each board of supervisors shall establish in the county treasury a Trial Court Operations Fund, which will operate as a special revenue fund. All funds appropriated in the Budget Act and allocated and reallocated to each court in the county by the Judicial Council shall be deposited into the fund. Accounts shall be established in the Trial Court Operations Fund for each trial court in the county, except that one account may be established for courts which have a unified budget. In a county where court budgets include appropriations for expenditures administered on a countywide basis, including, but not limited to, court security, centralized data-processing and planning and research services, an account for each centralized service shall be established and funded from those appropriations.

(b) The moneys of the Trial Court Operations Fund arising from deposits of funds appropriated in the Budget Act and allocated or reallocated to each court in the county by the Judicial Council shall be payable only for the purposes set forth in Sections 77003 and 77006.5, and for services purchased by the court pursuant to subdivisions (b) and (c) of Section 77212. The presiding judge of each court in a county, or his or her designee, shall authorize and direct expenditures from the fund and the county auditor-controller shall make payments from the funds as directed. Approval of the board of supervisors is not required for expenditure from this fund.

(c) Interest received by a county which is attributable to investment of money required by this section to be deposited in its Trial Court Operations Fund shall be deposited in the fund and shall be used for trial court operations purposes.

(d) In no event shall interest be charged to the Trial Court Operations Fund.

(e) Reasonable administrative expenses incurred by the county associated with the operation of this fund shall be charged to each court on a pro rata basis in proportion to the total amount allocated to each court in this fund.

(f) A county, or city and county, may bill trial courts within its jurisdiction for costs for services provided by the county, or city and county, as described in Sections 77003 and 77212, including indirect

costs as described in paragraph (7) of subdivision (a) of Section 77003 and Section 77212. The costs billed by the county, or the city and the county, pursuant to this subdivision shall not exceed the costs incurred by the county, or the city and the county, of providing similar services to county departments or special districts.

(g) Pursuant to Section 77206, the Controller, at the request of the Legislature or the Judicial Council, may perform financial and fiscal compliance audits of this fund.

(h) The Judicial Council with the concurrence of the Department of Finance and the Controller's office shall establish procedures to implement the provisions of this section and to provide for payment of trial court operations expenses, as described in Sections 77003 and 77006.5, incurred on July 1, 1997, and thereafter.

(i) The Judicial Council shall study alternative methods for the establishment and management of the Trial Court Operations Fund as provided in this section, and shall report its findings and recommendations to the Legislature not later than November 1, 1998.

SEC. 45. Article 3 (commencing with Section 77200) of Chapter 13 of Title 8 of the Government Code is repealed.

SEC. 46. Article 3 (commencing with Section 77200) is added to Chapter 13 of Title 8 of the Government Code, to read:

### Article 3. State Finance Provisions

77200. On and after July 1, 1997, the state shall assume sole responsibility for the funding of court operations, as defined in Section 77003 and Rule 810 of the California Rules of Court as it read on July 1, 1996. In meeting this responsibility, the state shall do all of the following:

(a) Deposit in the State Trial Court Trust Fund, for subsequent allocation to or for the trial courts, all county funds remitted to the state pursuant to Section 77201.

(b) Be responsible for the cost of court operations incurred by the trial courts in the 1997–98 fiscal year and subsequent fiscal years.

(c) Allocate funds to the individual trial courts pursuant to an allocation schedule adopted by the Judicial Council, but in no case shall the amount allocated to the trial courts of a county be less than the amount remitted to the state by the county in which those courts are located pursuant to paragraphs (1) and (2) of subdivision (b) of Section 77201.

(d) The Judicial Council shall submit its allocation schedule to the Controller at least 15 days before the due date of any allocation.

77201. (a) Commencing on July 1, 1997, no county shall be responsible for funding court operations, as defined in Section 77003 and Rule 810 of the California Rules of Court as it read on July 1, 1996.

(b) In the 1997–98 fiscal year, each county shall remit to the state in four equal installments due on January 1, April 1, and June 30, the amounts specified in paragraphs (1) and (2), as follows:

(1) Except as otherwise specifically provided in this section, each county shall remit to the state the amount listed below which is based on an amount expended by the respective county for court operations during the 1994–95 fiscal year:

| Jurisdiction | Amount |
|---|---|
| Alameda | $ 42,045,093 |
| Alpine | 46,044 |
| Amador | 900,196 |
| Butte | 2,604,611 |
| Calaveras | 420,893 |
| Colusa | 309,009 |
| Contra Costa | 21,634,450 |
| Del Norte | 780,786 |
| El Dorado | 3,888,927 |
| Fresno | 13,355,025 |
| Glenn | 371,607 |
| Humboldt | 2,437,196 |
| Imperial | 2,055,173 |
| Inyo | 546,508 |
| Kern | 16,669,917 |
| Kings | 2,594,901 |
| Lake | 975,311 |
| Lassen | 517,921 |
| Los Angeles | 291,872,379 |
| Madera | 1,242,968 |
| Marin | 6,837,518 |
| Mariposa | 177,880 |
| Mendocino | 1,739,605 |
| Merced | 1,363,409 |
| Modoc | 114,249 |
| Mono | 271,021 |
| Monterey | 5,739,655 |
| Napa | 2,866,986 |
| Nevada | 815,130 |
| Orange | 76,567,372 |
| Placer | 6,450,175 |
| Plumas | 413,368 |
| Riverside | 32,524,412 |

| | |
|---|---|
| Sacramento | 40,692,954 |
| San Benito | 460,552 |
| San Bernardino | 31,516,134 |
| San Diego | 77,637,904 |
| San Francisco | 31,142,353 |
| San Joaquin | 9,102,834 |
| San Luis Obispo | 6,840,067 |
| San Mateo | 20,383,643 |
| Santa Barbara | 10,604,431 |
| Santa Clara | 49,876,177 |
| Santa Cruz | 6,449,104 |
| Shasta | 3,369,017 |
| Sierra | 40,477 |
| Siskiyou | 478,144 |
| Solano | 10,780,179 |
| Sonoma | 9,273,174 |
| Stanislaus | 8,320,727 |
| Sutter | 1,718,287 |
| Tehama | 1,352,370 |
| Trinity | 620,990 |
| Tulare | 6,981,681 |
| Tuolumne | 1,080,723 |
| Ventura | 16,721,157 |
| Yolo | 2,564,985 |
| Yuba | 842,240 |

(2) Except as otherwise specifically provided in this section, each county shall also remit to the state the amount listed below which is based on an amount of fine and forfeiture revenue remitted to the state pursuant to Sections 27361 and 76000 of this code, Sections 1463.001 and 1464 of the Penal Code, and Sections 42007, 42007.1, and 42008 of the Vehicle Code during the 1994–95 fiscal year:

| Jurisdiction | Amount |
|---|---|
| Alameda | $12,769,882 |
| Alpine | 58,757 |
| Amador | 377,005 |
| Butte | 1,437,671 |
| Calaveras | 418,558 |
| Colusa | 485,040 |
| Contra Costa | 5,646,329 |
| Del Norte | 727,852 |

| | |
|---|---|
| El Dorado | 1,217,093 |
| Fresno | 4,505,786 |
| Glenn | 455,389 |
| Humboldt | 1,161,745 |
| Imperial | 1,350,760 |
| Inyo | 878,321 |
| Kern | 6,688,247 |
| Kings | 1,115,601 |
| Lake | 424,070 |
| Lassen | 513,445 |
| Los Angeles | 89,771,310 |
| Madera | 1,207,998 |
| Marin | 2,700,045 |
| Mariposa | 135,457 |
| Mendocino | 948,837 |
| Merced | 2,093,355 |
| Modoc | 122,156 |
| Mono | 415,136 |
| Monterey | 3,855,457 |
| Napa | 874,219 |
| Nevada | 1,378,796 |
| Orange | 24,830,542 |
| Placer | 2,182,230 |
| Plumas | 225,080 |
| Riverside | 13,328,445 |
| Sacramento | 7,548,829 |
| San Benito | 346,451 |
| San Bernardino | 11,694,120 |
| San Diego | 21,410,586 |
| San Francisco | 5,925,950 |
| San Joaquin | 4,753,688 |
| San Luis Obispo | 2,573,968 |
| San Mateo | 7,124,638 |
| Santa Barbara | 4,094,288 |
| Santa Clara | 15,561,983 |
| Santa Cruz | 2,267,327 |
| Shasta | 1,198,773 |
| Sierra | 46,778 |
| Siskiyou | 801,329 |
| Solano | 3,757,059 |

| | |
|---|---|
| Sonoma | 2,851,883 |
| Stanislaus | 2,669,045 |
| Sutter | 802,574 |
| Tehama | 761,188 |
| Trinity | 137,087 |
| Tulare | 2,299,167 |
| Tuolumne | 440,496 |
| Ventura | 6,129,411 |
| Yolo | 1,516,065 |
| Yuba | 402,077 |

(3) Except as otherwise specifically provided in this section, county remittances specified in paragraphs (1) and (2) shall not be increased in subsequent years.

(4) Any change in statute or rule of court that either reduces the bail schedule or redirects or reduces a county's portion of fee, fine, and forfeiture revenue to an amount that is less than (A) the fees, fines, and forfeitures retained by that county and (B) the county's portion of fines and forfeitures transmitted to the state in the 1994–95 fiscal year, shall reduce that county's remittance specified in paragraph (2) of this subdivision by an equal amount. Nothing in this paragraph is intended to limit judicial sentencing discretion.

(c) The Department of Finance shall adjust the amount specified in paragraph (1) of subdivision (b) that a county is required to submit to the state, pursuant to the following procedures:

(1) A county may submit a declaration to the Department of Finance, no later than February 15, 1998, that declares that (A) the county incorrectly reported county costs as court operations costs as defined in Section 77003 in the 1994–95 fiscal year, and that incorrect report resulted in the amount the county is required to submit to the state pursuant to paragraph (1) of subdivision (b) being too high, (B) the amount the county is required to submit to the state pursuant to paragraph (1) of subdivision (b) includes amounts that were specifically appropriated, funded and expended by a county or city and county during fiscal year 1994–95 to fund extraordinary one-time expenditures for court operation costs, or (C) the amount the county is required to submit to the state pursuant to paragraph (1) of subdivision (b) includes expenses that were funded from grants or subventions from any source, for court operation costs that could not have been funded without those grants or subventions being available. A county submitting that declaration shall concurrently transmit a copy of the declaration to the courts of that county. The trial courts in a county that submits that declaration shall have the opportunity to comment to the Department of Finance on the validity of the statements in the declaration. Upon receipt of the declaration and comments, if any, the Department of Finance shall

determine and certify which costs identified in the county's declaration were incorrectly reported as court operation costs or were expended for extraordinary one-time expenditures or funded from grants or subventions in the 1994–95 fiscal year. The Department of Finance shall reduce the amount a county must submit to the state pursuant to paragraph (1) of subdivision (b) by an amount equal to the amount the department certifies was incorrectly reported as court operations costs or were expended for extraordinary one-time expense or funded from grants or subventions in the 1994–95 fiscal year. If a county disagrees with the Department of Finance's failure to verify the facts in the county's declaration and reduce the amount the county is required to submit to the state pursuant to paragraph (1) of subdivision (b), the county may request that the Controller conduct an audit to verify the facts in the county's declaration. The Controller shall conduct the requested audit, which shall be at the requesting county's expense. If the Controller's audit verifies the facts in the county's declaration, the department shall reduce the amount the county is required to submit to the state pursuant to paragraph (1) of subdivision (b) by an amount equal to the amount verified by the Controller's audit and the state shall reimburse the requesting county for the cost of the audit. A county shall provide, at no charge to the court, any service for which the amount in paragraph (1) of subdivision (b) was adjusted downward, if the county is required to provide that service at no cost to the court by any other provision of law.

(2) A court may submit a declaration to the Department of Finance, no later than February 15, 1998, that the county failed to report county costs as court operations costs as defined in Section 77003 in the 1994–95 fiscal year, and that this failure resulted in the amount the county is required to submit to the state pursuant to paragraph (1) of subdivision (b) being too low. A court submitting that declaration shall concurrently transmit a copy of the declaration to the county. A county shall have the opportunity to comment to the Department of Finance on the validity of statements in the declaration and comments, if any. Upon receipt of the declaration, the Department of Finance shall determine and certify which costs identified in the court's declaration should have been reported by the county as court operation costs in the 1994–95 fiscal year and whether this failure resulted in the amount the county is required to submit to the state pursuant to paragraph (1) of subdivision (b) being too low. The Department of Finance shall notify the county, trial courts in the county, and the Judicial Council of its certification and decision. Within 30 days, or on or before June 30, 1998, whichever is later, the county shall either notify the Department of Finance, trial courts in the county, and the Judicial Council that the county shall assume responsibility for the costs the county has failed to report or that the department shall increase the amount the county is required to submit to the state pursuant to paragraph (1) of subdivision (b)

by an amount equal to the amount certified by the department. A county shall not be required to continue to provide services for which the amount in paragraph (1) of subdivision (b) was adjusted upward.

(3) A county shall submit a declaration to the Department of Finance, no later than February 15, 1998, that the amount it is required to submit to the state pursuant to paragraph (1) of subdivision (b) either includes or does not include the costs for local judicial benefits which are court operation costs as defined in Section 77003 and Rule 810 of the California Rules of Court. The trial courts in a county that submits such a declaration shall be given a copy of the declaration and the opportunity to comment on the validity of the statements in the declaration. The Department of Finance shall verify the facts in the county's declaration and comments, if any, within 30 days of receipt of the declaration and, upon verification that the amount the county is required to submit to the state includes the costs of local judicial benefits, the department shall reduce the amount the county is required to submit to the state pursuant to paragraph (1) of subdivision (b) by an amount equal to the cost of those judicial benefits, in which case the county shall continue to be responsible for the cost of those benefits. If a county disagrees with the Department of Finance's failure to verify the facts in the county's declaration and reduce the amount the county is required to submit to the state pursuant to paragraph (1) of subdivision (b), the county may request that the Controller conduct an audit to verify the facts in the county's declaration. The Controller shall conduct the requested audit which shall be at the requesting county's expense. If the Controller's audit verifies the facts in the county's declaration, the department shall reduce the amount the county is required to submit to the state pursuant to paragraph (1) of subdivision (b) by an amount equal to the amount verified by the Controller's audit and the state shall reimburse the requesting county for the cost of the audit.

(d) Nothing in this section is intended to relieve a county of the responsibility to provide necessary and suitable court facilities pursuant to Section 68073.

(e) Nothing in this section is intended to relieve a county of the responsibility for justice-related expenses not included in Section 77003 which are otherwise required of the county by law, including, but not limited to, indigent defense representation and investigation, and payment of youth authority charges.

(f) The Department of Finance shall notify the county, trial courts in the county, and Judicial Council of the final decision and resulting adjustment.

(g) On or before February 15, 1998, each county shall submit to the Department of Finance a report of the amount it expended for trial court operations as defined in Section 77003 and Rule 810 of the California Rules of Court as it read on July 1, 1996, between the start of the 1997–98 fiscal year and the effective date of this section. The

department shall reduce the amount a county is required to remit to the state pursuant to paragraph (1) of subdivision (b) in the 1997–98 fiscal year by an amount equal to the amount a county expended for court operation costs between the start of the 1997–98 fiscal year and the effective date of this section. The department shall also reduce the amount a county is required to remit to the state pursuant to paragraph (2) of subdivision (b) in the 1997–98 fiscal year by an amount equal to the amount of fine and forfeiture revenue that a county remitted to the state between the start of the 1997–98 fiscal year and the effective date of this section. The department shall notify the county, the trial courts of the county, and the Judicial Council of the amount it has reduced a county's obligation to remit to the state pursuant to this subdivision.

(h) This section shall be repealed on July 1, 1998, unless a later-enacted statute, enacted before that date extends or deletes that date.

77201.1. (a) Commencing on July 1, 1997, no county shall be responsible for funding court operations, as defined in Section 77003 and Rule 810 of the California Rules of Court as it read on July 1, 1996.

(b) Commencing in the 1998–99 fiscal year, and each fiscal year thereafter, each county shall remit to the state in four equal installments due on October 1, January 1, April 1, and July 1, the amounts specified in paragraphs (1) and (2), as follows:

(1) Except as otherwise specifically provided in this section, each county shall remit to the state the amount listed below which is based on an amount expended by the respective county for court operations during the 1994–95 fiscal year:

| Jurisdiction | Amount |
|---|---|
| Alameda | $ 29,554,276 |
| Alpine | – |
| Amador | – |
| Butte | 2,188,561 |
| Calaveras | – |
| Colusa | – |
| Contra Costa | 14,553,828 |
| Del Norte | – |
| El Dorado | 2,642,828 |
| Fresno | 11,220,322 |
| Glenn | – |
| Humboldt | 2,023,135 |
| Imperial | 1,855,173 |
| Inyo | – |
| Kern | 12,237,358 |
| Kings | 1,981,326 |

| | |
|---|---|
| Lake | – |
| Lassen | – |
| Los Angeles | 200,596,408 |
| Madera | 1,042,967 |
| Marin | 4,727,855 |
| Mariposa | – |
| Mendocino | 1,539,605 |
| Merced | 1,163,409 |
| Modoc | – |
| Mono | – |
| Monterey | 5,539,656 |
| Napa | 2,131,045 |
| Nevada | 615,130 |
| Orange | 52,341,395 |
| Placer | 3,928,394 |
| Plumas | – |
| Riverside | 21,226,163 |
| Sacramento | 25,798,064 |
| San Benito | – |
| San Bernardino | 22,536,554 |
| San Diego | 50,764,874 |
| San Francisco | 20,731,433 |
| San Joaquin | 7,129,952 |
| San Luis Obispo | 4,447,550 |
| San Mateo | 13,179,481 |
| Santa Barbara | 7,516,435 |
| Santa Clara | 32,910,617 |
| Santa Cruz | 4,634,736 |
| Shasta | 2,750,564 |
| Sierra | – |
| Siskiyou | – |
| Solano | 6,975,509 |
| Sonoma | 6,724,289 |
| Stanislaus | 5,872,184 |
| Sutter | 1,388,808 |
| Tehama | – |
| Trinity | – |
| Tulare | 5,252,388 |
| Tuolumne | – |
| Ventura | 11,392,454 |

| | |
|---|---|
| Yolo | 2,364,984 |
| Yuba | – |

(2) Except as otherwise specifically provided in this section, each county shall also remit to the state the amount listed below which is based on an amount of fine and forfeiture revenue remitted to the state pursuant to Sections 27361 and 76000 of this code, Sections 1463.001 and 1464 of the Penal Code, and Sections 42007, 42007.1, and 42008 of the Vehicle Code during the 1994–95 fiscal year:

| Jurisdiction | Amount |
|---|---|
| Alameda | $ 9,912,156 |
| Alpine | 58,757 |
| Amador | 265,707 |
| Butte | 1,217,052 |
| Calaveras | 310,331 |
| Colusa | 397,468 |
| Contra Costa | 4,168,194 |
| Del Norte | 553,730 |
| El Dorado | 1,028,349 |
| Fresno | 3,695,633 |
| Glenn | 360,974 |
| Humboldt | 1,025,583 |
| Imperial | 1,144,661 |
| Inyo | 614,920 |
| Kern | 5,530,972 |
| Kings | 982,208 |
| Lake | 375,570 |
| Lassen | 430,163 |
| Los Angeles | 71,002,129 |
| Madera | 1,042,797 |
| Marin | 2,111,712 |
| Mariposa | 135,457 |
| Mendocino | 755,680 |
| Merced | 1,733,156 |
| Modoc | 104,729 |
| Mono | 415,136 |
| Monterey | 3,330,125 |
| Napa | 721,437 |
| Nevada | 1,220,686 |
| Orange | 19,572,810 |
| Placer | 1,243,754 |

| | |
|---|---|
| Plumas | 193,772 |
| Riverside | 7,681,744 |
| Sacramento | 6,440,273 |
| San Benito | 302,324 |
| San Bernardino | 9,092,380 |
| San Diego | 16,166,735 |
| San Francisco | 4,046,107 |
| San Joaquin | 3,562,835 |
| San Luis Obispo | 2,036,515 |
| San Mateo | 4,831,497 |
| Santa Barbara | 3,277,610 |
| Santa Clara | 11,597,583 |
| Santa Cruz | 1,902,096 |
| Shasta | 1,044,700 |
| Sierra | 42,533 |
| Siskiyou | 615,581 |
| Solano | 3,011,833 |
| Sonoma | 2,316,999 |
| Stanislaus | 1,855,169 |
| Sutter | 678,681 |
| Tehama | 640,303 |
| Trinity | 137,087 |
| Tulare | 1,840,422 |
| Tuolumne | 361,665 |
| Ventura | 4,575,349 |
| Yolo | 1,158,629 |
| Yuba | 318,242 |

(3) Except as otherwise specifically provided in this section, county remittances specified in paragraphs (1) and (2) shall not be increased in subsequent years.

(4) The amount a county is required to remit pursuant to paragraph (1) shall be adjusted by the amount equal to any adjustment resulting from the procedures in subdivision (c) of Section 77201 as it read on June 29, 1998.

(5) Any change in statute or rule of court that either reduces the bail schedule or redirects or reduces a county's portion of fee, fine, and forfeiture revenue to an amount that is less than (A) the fees, fines, and forfeitures retained by that county and (B) the county's portion of fines and forfeitures transmitted to the state in the 1994–95 fiscal year, shall reduce that county's remittance specified in paragraph (2) of this subdivision by an equal amount. Nothing in this paragraph is intended to limit judicial sentencing discretion.

(c) Nothing in this section is intended to relieve a county of the responsibility to provide necessary and suitable court facilities pursuant to Section 68073.

(d) Nothing in this section is intended to relieve a county of the responsibility for justice-related expenses not included in Section 77003 which are otherwise required of the county by law, including, but not limited to, indigent defense representation and investigation, and payment of youth authority charges.

(e) County base-year remittance requirements specified in paragraph (2) of subdivision (b) incorporate specific reductions to reflect those instances where the Department of Finance has determined that a county's remittance to both the General Fund and the Trial Court Trust Fund during the 1994–95 fiscal year exceeded the aggregate amount of state funding from the General Fund and the Trial Court Trust Fund. The amount of the reduction was determined by calculating the difference between the amount the county remitted to the General Fund and the Trial Court Trust Fund and the aggregate amount of state support from the General Fund and the Trial Court Trust Fund allocated to the county's trial courts. In making its determination of whether a county is entitled to a reduction pursuant to that paragraph, the Department of Finance subtracted from county revenues remitted to the state, all moneys derived from the fee required by Section 42007.1 of the Vehicle Code and the parking surcharge required by subdivision (c) of Section 76000.

(f) Notwithstanding subdivision (e), the Department of Finance shall not reduce a county's base-year remittance requirement, as specified in paragraph (2) of subdivision (b), if the county's trial court funding allocation was modified pursuant to the amendments to the allocation formula set forth in paragraph (4) of subdivision (d) of Section 77200, as amended by Chapter 2 of the Statutes of 1993, to provide a stable level of funding for small county courts in response to reductions in the State General Fund support for the trial courts.

(g) The Department of Finance shall notify the county, trial courts in the county, and Judicial Council of the final decision and resulting adjustment.

(h) This section shall become operative on July 1, 1998.

77202. (a) The Legislature shall make an annual appropriation to the Judicial Council for the general operations of the trial courts based on the recommendations of the Trial Court Budget Commission, as approved by the Judicial Council, as specified in paragraph (4) of subdivision (a) of Section 68502.5. The Judicial Council's trial court budget request shall meet the needs of all trial courts in a manner which promotes equal access to the courts statewide. The Judicial Council shall allocate the appropriation to the trial courts in a manner that best ensures the ability of the courts to carry out their functions, promotes implementation of statewide policies, and promotes the immediate implementation of efficiencies

and cost saving measures in court operations, in order to guarantee access to justice to citizens of the state.

The Judicial Council shall ensure that the recommendations of the commission and the allocations made by the council reward each trial court's implementation of efficiencies and cost saving measures.

These efficiencies and cost saving measures shall include the following:

(1) The use of blanket cross-assignments allowing judges to hear civil, criminal, or other types of cases within the jurisdiction of another court.

(2) The coordinated or joint use of subordinate judicial officers to hear or try matters.

(3) The coordinated or joint use, sharing, or merger of court support staff among trial courts within a county or across counties.

(4) The assignment of civil, criminal, or other types of cases for hearing or trial, regardless of jurisdictional boundaries, to any available judicial officer.

(5) The assignment of any type of case to a judge for all purposes commencing with the filing of the case and regardless of jurisdictional boundaries.

(6) The establishment of a separate calendar or division to hear a particular type of case.

(7) In rural counties, the use of all court facilities for hearings and trials of all types of cases and the acceptance of filing documents in any case before any court in the county participating in the coordination plan.

(8) The coordinated or joint use of alternative dispute resolution programs, such as arbitration.

(9) The unification of the trial courts within a county to the maximum extent permitted by the Constitution.

(10) The development and use of joint automated accounting and case-processing systems.

(b) The Judicial Council shall promulgate rules governing practices and procedures for budgeting in the trial courts in a manner that best ensures the ability of the courts to carry out their functions. The Administrative Office of the Courts, after consultation with the Department of Finance, shall establish budget procedures and an annual schedule of budget development and management consistent with these rules.

77203. The Judicial Council may authorize a trial court to carry unexpended funds over from one fiscal year to the next, provided that the court carrying over the funds has fully implemented all provisions of Rule 991 of the California Rules of Court as it read on July 1, 1996, regarding trial court coordination.

77204. (a) The Judicial Council shall have the authority to allocate funds appropriated annually to the State Trial Court Trust Fund for the purpose of paying legal costs resulting from lawsuits or claims arising out of the actions or conduct of a trial court, trial court

bench officer, or trial court employee, and for which the state is named as a defendant or alleged to be the responsible party.

(b) For the purposes of this section, legal costs are further defined to be (1) the state's portion of any agreement, settlement decree, stipulation, or stipulated judgment in an action involving a trial court bench officer or employee, or challenging a California rule of court, form, local trial court rule or policy; (2) the state's portion of any judgment in an action involving a trial court bench officer or employee, or challenging a California rule of court, form, local trial court rule or policy; or (3) the state's portion of any attorneys' fees, legal assistant fees, and any litigation costs and expenses, including, but not limited to, experts' fees, incurred in an action involving a trial court bench officer or employee, or challenging a California rule of court, form, local trial court rule or policy.

77205. (a) Notwithstanding any other provision of law, in any year in which a county collects and remits fine and forfeiture revenue pursuant to Sections 1463.001, 1463.07, and 1464 of the Penal Code and Sections 42007, 42007.1, and 42008 of the Vehicle Code, and Sections 27361 and 76000 of the Government Code that exceeds the amount specified in paragraph (2) of subdivision (b) of Section 77201, the excess amount shall be divided between the county or city and county and the state, with 50 percent of the excess transferred to the state for deposit in the Trial Court Improvement Fund and 50 percent of the excess being deposited into the county general fund. For the purpose of this subdivision, fine and forfeiture revenue shall not include revenue from penalty assessments.

(b) Any amounts required to be distributed to the state pursuant to subdivision (a) shall be remitted to the Controller no later than 45 days after the end of the fiscal year in which those fines and forfeitures were collected. This remittance shall be accompanied by a remittance advice identifying the quarter of collection and stating that the amount should be deposited in the Trial Court Improvement Fund.

(c) Subject to subdivisions (a) and (b), moneys in the Trial Court Improvement Fund shall be subject to expenditure pursuant to Section 77213.

77206. (a) The Judicial Council shall adopt appropriate rules for budget submission, budget management, and reporting of revenues and expenditures by each court. The Controller, in consultation with the Judicial Council, shall maintain appropriate regulations for recordkeeping and accounting by the courts, in order to determine all moneys collected by the courts, including filing fees, fines, forfeitures, and penalties, and all revenues and expenditures relating to court operations.

(b) Regulations, rules, and reporting requirements adopted pursuant to this chapter shall be exempt from review and approval or other processing by the Office of Administrative Law as provided

for in Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2.

(c) The Controller, at the request of the Legislature or the Judicial Council, may perform and publish financial and fiscal compliance audits of the reports of court revenues and expenditures. The Controller shall report the results of these audits to the Legislature.

(d) The Judicial Council shall provide for the transmission of summary information concerning court revenues and expenditures to the Controller.

77207. The Legislature shall appropriate trial court funding. The Controller shall apportion trial court funding payments to the courts pursuant to an allocation schedule adopted by the Judicial Council in four quarterly installments. Beginning in the 1997–98 fiscal year, the Controller shall make quarterly apportionment payments on July 15, October 15, January 15, and April 15, provided, that if the operative date of this section is less than 10 days prior to July 1, 1997, or thereafter, the Controller shall make the first quarterly apportionment payment within 10 days of the operative date of this section. In subsequent fiscal years, payments shall be due on July 15, October 15, January 15, and April 15.

77208. Amounts appropriated in the annual Budget Act for assigned judges shall be transferred to the Judicial Council on a monthly basis. The Judicial Council shall certify the amount expended for judicial assignment purposes monthly, and the Controller shall transfer to the Judicial Council the amount certified. The amounts so transferred by the Controller shall be credited to the appropriation available to the Judicial Council in augmentation of the Budget Act.

77209. (a) There is in the State Treasury the Trial Court Improvement Fund.

(b) The Judicial Council shall reserve funds for the following projects by allocating 1 percent of the annual appropriation for the trial courts to the Trial Court Improvement Fund as follows:

(1) At least one-half of 1 percent of the total appropriation for trial court operations shall be set aside as a reserve which shall not be allocated prior to March 15 of each year unless allocated to a court or courts for urgent needs.

(2) Up to one-quarter of 1 percent of the total appropriation for trial court operations may be allocated from the fund to courts which have fully implemented the requirements of Rule 991 of the California Rules of Court, as it read on July 1, 1996, and which meet additional criteria as may be established by the Judicial Council.

(3) Up to one-quarter of 1 percent of the total appropriation for trial court operations may be allocated from the fund for statewide projects or programs for the benefit of the trial courts.

(c) Except as specified in this section, the funds in the Trial Court Improvement Fund shall be subject to expenditure as specified in Sections 77205 and 77213. Any funds in the Trial Court Improvement

Fund that are unencumbered at the end of the fiscal year shall be reappropriated to the Trial Court Improvement Fund for the following fiscal year.

(d) Moneys deposited in the Trial Court Improvement Fund shall be placed in an interest bearing account. Any interest earned shall accrue to the fund and shall be disbursed pursuant to subdivision (e).

(e) Moneys deposited in the Trial Court Improvement Fund may be disbursed for purposes of this section.

(f) Moneys deposited in the Trial Court Improvement Fund pursuant to Section 68090.8 shall be allocated by the Judicial Council for automated recordkeeping system improvements pursuant to that section and in furtherance of Rule 991 of the California Rules of Court, as it read on July 1, 1996.

(g) Moneys deposited in the Trial Court Improvement Fund shall be administered by the Judicial Council. The Judicial Council may, with appropriate guidelines, delegate to the Administrative Office of the Courts the administration of the fund. Moneys in the fund may be expended to implement trial court projects approved by the Judicial Council. Expenditures may be made to vendors or individual trial courts that have the responsibility to implement approved projects.

(h) Notwithstanding other provisions of this section, the 2 percent automation fund moneys deposited in the Trial Court Improvement Fund pursuant to Section 68090.8 shall be allocated by the Judicial Council to individual courts of the counties for deposit in the Trial Court Operations Fund of the county from which the money was collected in an amount not less than the revenues collected in the local 2 percent automation funds in fiscal year 1994–95. The Judicial Council shall allocate the remainder of the moneys deposited in the Trial Court Improvement Fund as specified in this section.

For the purposes of this subdivision, the term "2 percent automation fund" means the fund established pursuant to Section 68090.8 as it read on June 30, 1996.

(i) The Judicial Council shall present an annual report to the Legislature on the use of the Trial Court Improvement Fund. The report shall include appropriate recommendations.

77210. (a) The state shall provide municipal court judges retired under the Judges' Retirement System with retiree health, dental, and vision care plans equal to and in the same manner as the health, dental, and vision benefits provided to retired superior court judges.

(b) No judge shall have any salary or benefits reduced solely by reason of the enactment of this section.

77211. Any trial court may establish a "900" telephone number or numbers for traffic, misdemeanor, and other telephonic arraignment, for court scheduling, and for rendering tentative civil decisions, provided the court provides an alternative method of obtaining the service or information in a free and timely manner, and informs individuals of this alternative in the message preceding the

"900" information. The proceeds from these "900" telephone numbers shall be continuously and solely appropriated to the use of that court for staff, information, and data-processing services for the purposes specified in this section.

77212. (a) The State of California, the Counties of California, and the Trial Courts of California, recognize that a unique and interdependent relationship has evolved between the courts and the counties over a sustained period of time. While it is the intent of this act to transfer all fiscal responsibility for the support of the trial courts from the counties to the State of California, it is imperative that the activities of the state, the counties, and the trial courts be maintained in a manner that ensures that services to the people of California not be disrupted. Therefore, to this end, during the 1997–98 fiscal year, commencing on July 1, 1997, counties shall continue to provide and courts shall continue to use, county services provided to the trial courts on July 1, 1997, including, but not limited to: auditor/controller services, coordination of telephone services, data-processing and information technology services, procurement, human resources services, affirmative action services, treasurer/tax collector services, county counsel services, facilities management, and legal representation. These services shall be provided to the court at a rate that shall not exceed the costs of providing similar services to county departments or special districts. If the cost was not included in the county base pursuant to paragraph (1) of subdivision (b) of Section 77201 or was not otherwise charged to the court prior to July 1, 1997, and were court operation costs as defined in Section 77003 in the fiscal year 1994–95, the court may seek adjustment of the amount the county is required to submit to the state pursuant to paragraph (2) of subdivision (c) of Section 77201.

(b) In fiscal year 1998–99 commencing on July 1, 1998, and thereafter the county may give notice to the court that the county will no longer provide a specific service except that the county shall cooperate with the court to ensure that a vital service for the court shall be available from the county or other entities that provide such services. The notice must be given at least 90 days prior to the end of the fiscal year and shall be effective only upon the first day of the succeeding fiscal year.

(c) In fiscal year 1998–99, commencing on July 1, 1998, and thereafter, the court may give notice to the county that the court will no longer use a specific county service. The notice shall be given at least 90 days prior to the end of the fiscal year and shall be effective only upon the first day of the succeeding fiscal year. However, for three years from the effective date of this section, a court shall not terminate a service that involved the acquisition of equipment, including, but not limited to, computer and data-processing systems financed by a long-term financing plan whereby the county is dependent upon the court's continued financial support for a portion of the cost of the acquisition.

77213. (a) There is in the State Treasury the Judicial Administration Efficiency and Modernization Fund.

(b) Moneys deposited into this fund shall be administered by the Judicial Council, subject to appropriation by the Legislature. The Judicial Council may, with appropriate guidelines, delegate to the Administrative Office of the Courts the administration of the fund. Moneys in the fund may be expended to promote improved access, efficiency, and effectiveness in trial courts that have unified to the fullest extent permitted by law. Moneys in the fund may be expended to implement projects approved by the Judicial Council. Expenditures may be made to vendors or individual trial courts that have the responsibility to implement approved projects. Projects approved by the Judicial Council may include, but are not limited to, the following:

(1) Support the payment for cost of judicial officers or court staff who participate in in-state education programs, or to support local trial court education programs.

(2) Improved technology including information systems programming or equipment upgrades that meet standards approved by the Judicial Council and that promote efficiency and access to justice, or other technology that promotes access, efficiency, or security.

(3) Retain experienced jurists by establishing incentives of enhanced judicial benefits and educational sabbaticals, not to exceed 120 days every five years, as provided for by rules of court adopted by the Judicial Council.

(4) Acquire improved legal research through the use of law clerks or technology.

(c) Annually, the Judicial Council shall adopt criteria, timelines, and procedures for the allocation of funds to support activities for the benefit of qualified courts. The Judicial Council may allocate funding to pay program costs directly, contract with courts, and permanently reallocate funding to courts subject to the following limitations:

(1) Not more than 20 percent of the fund may be permanently reallocated pursuant to paragraph (1) of subdivision (b). The Judicial Council shall develop a plan which will permit the extension of the benefits to all judges of the state at such time when the trial courts of all counties have unified to the maximum extent permitted by law.

(2) Not more than 40 percent may be permanently reallocated to trial courts for any other purpose approved by the Judicial Council.

(3) The Judicial Council shall retain at least 40 percent of the funding to support annual allocations for improvement projects and programs in qualifying courts.

(4) Written notice shall be given to the Director of the Department of Finance and the Joint Legislative Budget Committee of any permanent reallocation.

(d) Except as specified in this section, the funding in the Judicial Administration Efficiency and Modernization Fund shall be subject

to the expenditures as specified in Section 77205. Any funds in the Judicial Administration Efficiency and Modernization Fund that are unencumbered at the end of the fiscal year shall be retained in the Judicial Administration Efficiency and Modernization Fund for the following fiscal year.

(e) Moneys deposited in the Judicial Administration Efficiency and Modernization Fund shall be placed in an interest-bearing account. Any interest earned shall accrue to the fund and shall be disbursed pursuant to subdivision (f).

(f) Money deposited in the Judicial Administration Efficiency and Modernization Fund may be disbursed for purposes of this section.

SEC. 47. Article 4 (commencing with Section 77300) of Chapter 13 of Title 8 of the Government Code is repealed.

SEC. 48. Chapter 14 (commencing with Section 77600) is added to Title 8 of the Government Code, to read:

## CHAPTER 14. TRIAL COURT FUNDING AND IMPROVEMENT ACT OF 1997

### Article 1. The Task Force on Trial Court Employees

77600. The Task Force on Trial Court Employees shall be established pursuant to this article on or before January 1, 1998, and is charged with recommending an appropriate system of employment and governance for trial court employees.

77601. The task force shall be comprised of the following members:

(a) Four representatives of trial courts, appointed by the Chief Justice, representing two urban, one suburban, and one rural courts.

(b) Four representatives of counties, appointed by the Governor from a list of nominees submitted by the California State Association of Counties, representing urban, suburban, and rural counties.

(c) Three representatives appointed by the Senate Rules Committee, at least two of whom shall represent trial court employee organizations.

(d) Three representatives appointed by the Speaker of the Assembly, at least two of whom shall represent trial court employee organizations.

(e) The Director of the Department of Personnel Administration or his or her representative.

(f) The Chief Executive Officer of PERS or his or her representative.

(g) The Director of Finance or his or her representative.

(h) The Chief Justice shall designate a justice of the court of appeal as nonvoting chairperson.

77602. The Judicial Council shall provide staff support for the task force and shall develop guidelines for procedures and practices for the task force, which shall include input from and approval of the task

force. The Department of Personnel Administration, the Department of Finance, and the Legislative Analyst shall provide additional support, at the request of the Judicial Council. The California State Association of Counties is encouraged to provide additional staff support.

77603. The duties of the task force shall include, but not be limited to, the following:

(a) Complete a survey of all trial courts regarding court employee status, classification, and salary.

(b) Document the local retirement systems in which trial court employees are members and the terms of the systems, and identify future retirement options.

(c) Determine the costs associated with a change in retirement benefits for court employees, including the cost to counties resulting from such change, including, but not limited to, the impact of such a change on pension obligation bonds, unfunded liabilities, and changes in actuarial assumptions.

(d) Document existing contractual agreements and the terms and conditions of employment, and document exclusive bargaining agents representing court employees by court, county, and unit.

(e) Document existing constitutional, statutory, and other provisions relating to classification, compensation, and benefits of court employees.

(f) Identify functions relating to trial courts that are provided by county employees.

(g) Examine and outline issues relating to the establishment of a local personnel structure for trial court employees under (1) court employment, (2) county employment, with the concurrence of the county and the courts in the county (3) state employment with the concurrence of the state and the courts in the county, or (4) other options identified by the task force. The task force, in recommending options for employee status, shall consider the complexity of the interests of employees and various governmental entities. Their recommendations shall, to the greatest extent possible, recognize the need for achieving the concurrence of the affected parties.

In outlining these issues, consideration shall be given to contractual obligations, minimizing disruption of the trial court work force, and protecting the rights accrued by employees under their current systems.

(h) Prepare a method for submitting the issue of employment status to an advisory vote of trial court employees in each county.

(i) Recommend a personnel structure for trial court employees.

77604. (a) The task force shall be appointed by October 1, 1997.

(b) The task force shall meet and establish its operating procedures on or before January 1, 1998.

(c) The task force shall submit an interim report to the Judicial Council, the Legislature, and the Governor on or before January 30, 1999. The report shall include the findings and recommendations of

the task force with respect to the issues listed in Section 77603. The report shall be circulated for comment to the counties, judiciary, the Legislature, the Governor, and local and state employee organizations.

(d) The task force shall submit a final report to the above on or before June 1, 1999.

77605. (a) After giving consideration and due weight to the report of the task force, on or before January 1, 2000, the Judicial Council shall submit findings and recommendations to the Legislature relative to the establishment of a system of uniform court employee classifications, which may provide for local flexibility. These classifications shall include duty statements, minimum qualifications, and salary ranges. The classifications shall be broad enough so that the employees and their managers have maximum flexibility to accommodate the needs of the courts and the employees.

(b) It is the intent of the Legislature to enact a personnel system, that shall take effect on or before January 1, 2001, for employment of trial court employees. The personnel system shall have uniform statewide applicability and promote organizational and operational flexibility in accordance with Section 77001.

(c) Nothing herein is intended to prejudge or compel a finding by the task force that court or county or state employment is preferred.

(d) No provision of this article is intended to reduce judicial or court employee salary or benefits.

(e) No provision of this act shall be deemed to affect the current employment status of, or reduce benefits for, any peace officer involved in court operations.

77606. The recommendations of the task force shall take effect only upon subsequent action of the Legislature.

## Article 2. The Task Force on Court Facilities

77650. The Task Force on Court Facilities is hereby established in state government and charged with identifying the needs related to trial and appellate court facilities, and options and recommendations for funding court facility maintenance, improvements, and expansion, including the specific responsibilities of each entity of government.

77651. The task force shall be composed of 18 members, appointed as follows:

(a) Six members appointed by the Chief Justice who shall be from urban, suburban, and rural courts. Four representatives may be either trial court judges or trial court administrators. One representative shall be a justice of the courts of appeal.

(b) Six members appointed by the Governor from a list of nominees submitted by the California State Association of Counties, who represent urban, suburban, and rural counties. Four

representatives may be either county supervisors or county administrators. One representative shall be a person with court security responsibility.

(c) Two members appointed by the Senate Rules Committee, one of whom shall represent the State Bar or an associated attorney organization, neither of whom would be eligible for appointment under subdivision (a) or (b).

(d) Two members appointed by the Speaker of the Assembly, one of whom shall represent the State Bar or an associated attorney organization, neither of whom would be eligible for appointment under subdivision (a) or (b).

(e) The Director of General Services and the Director of Finance.

(f) The Chief Justice shall designate one of these representatives as the chairperson of the task force.

77652. The Judicial Council shall provide staff support for the task force and shall develop guidelines for procedures and practices for the task force. The Department of General Services, the Department of Finance, and the Legislative Analyst shall provide additional support, at the request of the Judicial Council. The California State Association of Counties is encouraged to provide additional staff support.

77653. The duties of the task force shall include all of the following:

(a) Document the state of existing court facilities.

(b) Document the need for new or modified court facilities and the extent to which current court facilities are fully utilized.

(c) Document the funding mechanisms currently available for maintenance, operation, construction, and renovation of court facilities.

(d) Examine existing standards for court facility construction.

(e) Document the impacts of state actions on court facilities and other state and local justice system facilities.

(f) Review and recommend operational changes which may mitigate the need for additional court facilities, including the implementation of methods to more fully utilize existing facilities.

(g) Review and provide recommendations on concepts regarding security; operational flexibility; alternative dispute resolution; meeting space; special needs of children, families, victims, and disabled persons; technology; the dignity of the participants; and any other special needs of court facilities.

(h) Recommend specific funding responsibilities among the various entities of government for support of trial court facilities and facility maintenance including, but not limited to, full state responsibility or continued county responsibility.

(i) Recommend funding sources and financing mechanisms for support of court facilities and facility maintenance.

77654. (a) The task force shall be appointed on or before October 1, 1997.

(b) The task force shall meet and establish its operating procedures on or before January 1, 1998.

(c) The task force shall review all available court facility standards and make preliminary determinations of acceptable standards for construction, renovation, and remodeling of court facilities on or before July 1, 1998.

(d) The task force shall complete a survey of all trial and appellate court facilities in the state and report its findings to the Judicial Council, the Legislature, and the Governor in a first interim report on or before July 1, 1999. The report shall document all of the following:

(1) The state of existing court facilities.

(2) The need for new or modified court facilities.

(3) The currently available funding options for constructing or renovating court facilities, and the task force plan for the succeeding year.

(e) The task force shall submit a second interim report to the Judicial Council, the Legislature, and the Governor on or before July 1, 2000. The report shall document all of the following:

(1) The impact which creating additional judgeships has upon court facility and other justice system facility needs.

(2) The effects which trial court coordination and consolidation have upon court and justice system facilities needs.

(3) Administrative and operational changes which can reduce or mitigate the need for added court or justice system facilities.

(f) The task force shall submit a third interim report to the Judicial Council, the Legislature, and the Governor on or before January 1, 2001. The report shall include all of the following:

(1) Recommendations for specific funding responsibilities among the entities of government including full state responsibility, full county responsibility, or shared responsibility.

(2) A proposed transition plan if responsibility is to be changed.

(3) Recommendations regarding funding sources for court facilities and funding mechanisms to support court facilities.

(g) All interim reports shall be circulated for comment to the counties, the judiciary, the Legislature, and the Governor. The task force may also circulate these reports to users of the court facilities.

(h) The task force shall submit a final report to the Judicial Council, the Legislature, and the Governor on or before July 1, 2001. The report shall include all elements of the interim reports incorporating any changes recommended by the task force in response to comments received.

(i) Notwithstanding any other provision of law, during the period from July 1, 1997 to June 30, 2001, the board of supervisors of each county shall be responsible for providing suitable and necessary facilities for judicial officers and court support staff for judicial positions created prior to January 1, 1996, to the extent required by Section 68073. The board of supervisors of each county shall also be

responsible for providing suitable and necessary facilities for judicial officers and court support staff for judgeships authorized by statutes chaptered in 1996 to the extent required by Section 68073, provided that the board of supervisors agrees that new facilities are either not required or that the county is willing to provide funding for court facilities. Unless a court and a county otherwise mutually agree, the state shall assume responsibility for suitable and necessary facilities for judicial officers and support staff for any judgeships authorized during the period from January 1, 1998, to June 30, 2001.

77655. Notwithstanding any other provision of law, including Section 68073, the findings of the task force shall not be considered or entered into evidence in any action brought by trial courts to compel a county to provide facilities that the trial court contends are necessary and suitable.

SEC. 48.5. Section 1170.45 is added to the Penal Code, to read:

1170.45. The Judicial Council shall collect data on criminal cases statewide relating to the disposition of those cases according to the race and ethnicity of the defendant, and report annually thereon to the Legislature beginning no later than January 1, 1999. It is the intent of the Legislature to appropriate funds to the Judicial Council for this purpose.

SEC. 49. Section 1463.001 of the Penal Code is amended to read:

1463.001. Except as otherwise provided in this section, all fines and forfeitures imposed and collected for crimes other than parking offenses resulting from a filing in a court shall as soon as practicable after receipt thereof, be deposited with the county treasurer, and each month the total fines and forfeitures which have accumulated within the past month shall be distributed, as follows:

(a) The state penalties, county penalties, special penalties, service charges, and penalty allocations shall be transferred to the proper funds as required by law.

(b) The base fines shall be distributed, as follows:

(1) Any base fines which are subject to specific distribution under any other section shall be distributed to the specified funds of the state or local agency.

(2) Base fines resulting from county arrest not included in paragraph (1), shall be transferred into the proper funds of the county.

In any fiscal year that a county, which has an agreement that was in effect as of March 22, 1977, that provides for city fines and forfeitures to accrue to the county in exchange for sales tax receipts, does not remit to the General Fund an amount equal to the amount transmitted during the 1993–94 fiscal year, that county shall make a payment from county funds equal to the difference to the General Fund by October 1 of the subsequent fiscal year.

(3) Base fines resulting from city arrests not included in paragraph (1), an amount equal to the applicable county percentages set forth in Section 1463.002, as modified by Section 1463.28, shall be

transferred into the proper funds of the county. Until July 1, 1998, the remainder of base fines resulting from city arrests shall be divided between each city and county, with 50 percent deposited to the county's general fund, and 50 percent deposited to the treasury of the appropriate city, and thereafter the remainder of base fines resulting from city arrests shall be deposited to the treasury of the appropriate city.

(4) In a county that had an agreement as of March 22, 1977, that provides for city fines and forfeitures to accrue to the county in exchange for sales tax receipts, of base fines resulting from city arrests not included in paragraph (1), 50 percent shall be deposited to the General Fund, and 50 percent shall be deposited into the proper funds of the county.

(c) Each county shall keep a record of its deposits to its treasury and its transmittal to each city treasury pursuant to this section.

(d) The distribution specified in subdivision (b) applies to all funds subject thereto distributed on or after July 1, 1992, regardless of whether the court has elected to allocate and distribute funds pursuant to Section 1464.8.

(e) Any amounts remitted to the county from amounts collected by the Franchise Tax Board upon referral by a county pursuant to Article 6 (commencing with Section 19280) of Chapter 5 of Part 10.2 of Division 2 of the Revenue and Taxation Code shall be allocated pursuant to this section.

SEC. 50. Section 1463.003 of the Penal Code is repealed.

SEC. 51. Section 1463.005 of the Penal Code is amended to read:

1463.005. Notwithstanding Section 1463.001, in a county subject to Section 77202.5 of the Government Code, of base fines resulting from arrests not subject to allocation under paragraph (1) of subdivision (b) of Section 1463.001, by a California Highway Patrol Officer on state highways constructed as freeways within the city whereon city police officers enforced the provisions of the Vehicle Code on April 1, 1965, 25 percent shall be deposited in the treasury of the appropriate city, 75 percent shall be deposited in the proper funds of the county.

SEC. 52. Section 1463.007 of the Penal Code is amended to read:

1463.007. Notwithstanding any other provision of law, any county or court that implements or has implemented a comprehensive program to identify and collect fines and forfeitures which have not been paid after 60 days from the date on which they were due and payable, with or without warrant having been issued against the alleged violator, and for which the base fine excluding state and county penalties is at least one hundred dollars ($100), may deduct and deposit in the county treasury the cost of operating that program, excluding capital expenditures, from any revenues collected thereby prior to making any distribution of revenues to other governmental entities required by any other provision of law. This section does not apply to a defendant who is paying a fine or forfeiture through time

payments, unless he or she is delinquent in making payments according to the agreed-upon payment schedule. For purposes of this section, a comprehensive collection program is a separate and distinct revenue collection activity and shall include at least 10 of the following components:

(a) Monthly bill statements to all debtors.

(b) Telephone contact with delinquent debtors to apprise them of their failure to meet payment obligations.

(c) Issuance of warning letters to advise delinquent debtors of an outstanding obligation.

(d) Requests for credit reports to assist in locating delinquent debtors.

(e) Access to Employment Development Department employment and wage information.

(f) The generation of monthly delinquent reports.

(g) Participation in the Franchise Tax Board's tax intercept program.

(h) The use of Department of Motor Vehicle information to locate delinquent debtors.

(i) The use of wage and bank account garnishments.

(j) The imposition of liens on real property and proceeds from the sale of real property held by a title company.

(k) The filing of objections to the inclusion of outstanding fines and forfeitures in bankruptcy proceedings.

(*l*) Coordination with the probation department to locate debtors who may be on formal or informal probation.

(m) The initiation of drivers' license suspension actions where appropriate.

(n) The capability to accept credit card payments.

SEC. 53. Section 1463.009 of the Penal Code is amended to read:

1463.009. Notwithstanding Section 1463, all bail forfeitures that are collected from any source in a case in which a defendant is charged and convicted of a violation of Section 261, 264.1, 286, 288, 288a, 288.5, or 289, or 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, and that are required to be deposited with the county treasurer shall be allocated according to the following priority:

(a) The county shall be reimbursed for reasonable administrative costs for the collection of the forfeited property, the maintenance and preservation of the property, and the distribution of the property pursuant to this section.

(b) Out of the remainder of the forfeited bail money, a total of up to 50 percent shall be distributed in the amount necessary to satisfy any civil court judgment in favor of a victim as a result of the offense or a restitution order due to a criminal conviction to a victim who was under 18 years of age at the time of the commission of the offense if the defendant is convicted under Section 261, 264.1, 286, 288, 288a, 288.5, or 289, and to a victim of any age if the defendant has been

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.

(c) The balance of the amount collected shall be deposited pursuant to Section 1463.

SEC. 54. Section 1463.010 is added to the Penal Code, to read:

1463.010. The enforcement of court orders is recognized as an important element of collections efforts. Therefore, the courts and counties shall maintain the collection program which was in place on January 1, 1996, unless otherwise agreed to by the court and county. The program may wholly or partially be staffed and operated within the court itself, may be wholly or partially staffed and operated by the county, or may be wholly or partially contracted with a third party.

SEC. 55. Section 1463.01 of the Penal Code is repealed.

SEC. 56. Section 1463.07 is added to the Penal Code, to read:

1463.07. An administrative screening fee of twenty-five dollars ($25) shall be collected from each person arrested and released on his or her own recognizance upon conviction of any criminal offense related to the arrest other than an infraction. A citation processing fee in the amount of ten dollars ($10) shall be collected from each person cited and released by any peace officer in the field or at a jail facility upon conviction of any criminal offense, other than an infraction, related to the criminal offense cited in the notice to appear. However, the court may determine a lesser fee than otherwise provided in this subdivision upon a showing that the defendant is unable to pay the full amount. All fees collected pursuant to this subdivision shall be deposited by the county auditor in the general fund of the county. This subdivision applies only to convictions occurring on or after the effective date of the act adding this subdivision.

SEC. 57. Section 1464 of the Penal Code is amended to read:

1464. (a) Subject to Chapter 12 (commencing with Section 76000) of Title 8 of the Government Code, there shall be levied a state penalty, in an amount equal to ten dollars ($10) for every ten dollars ($10) or fraction thereof, upon every fine, penalty, or forfeiture imposed and collected by the courts for criminal offenses, including all offenses, except parking offenses as defined in subdivision (i) of Section 1463, involving a violation of a section of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code. Any bail schedule adopted pursuant to Section 1269b may include the necessary amount to pay the state penalties established by this section and Chapter 12 (commencing with Section 76000) of Title 8 of the Government Code for all matters where a personal appearance is not mandatory and the bail is posted primarily to guarantee payment of the fine.

(b) Where multiple offenses are involved, the state penalty shall be based upon the total fine or bail for each case. When a fine is suspended, in whole or in part, the state penalty shall be reduced in proportion to the suspension.

(c) When any deposited bail is made for an offense to which this section applies, and for which a court appearance is not mandatory, the person making the deposit shall also deposit a sufficient amount to include the state penalty prescribed by this section for forfeited bail. If bail is returned, the state penalty paid thereon pursuant to this section shall also be returned.

(d) In any case where a person convicted of any offense, to which this section applies, is in prison until the fine is satisfied, the judge may waive all or any part of the state penalty, the payment of which would work a hardship on the person convicted or his or her immediate family.

(e) After a determination by the court of the amount due, the clerk of the court shall collect the penalty and transmit it to the county treasury. The portion thereof attributable to Chapter 12 (commencing with Section 76000) of Title 8 of the Government Code shall be deposited in the appropriate county fund and 70 percent of the balance shall then be transmitted to the State Treasury, to be deposited in the State Penalty Fund, which is hereby created, and 30 percent to remain on deposit in the county general fund. The transmission to the State Treasury shall be carried out in the same manner as fines collected for the state by a county.

(f) The moneys so deposited in the State Penalty Fund shall be distributed as follows:

(1) Once a month there shall be transferred into the Fish and Game Preservation Fund an amount equal to 0.33 percent of the state penalty funds deposited in the State Penalty Fund during the preceding month, except that the total amount shall not be less than the state penalty levied on fines or forfeitures for violation of state laws relating to the protection or propagation of fish and game. These moneys shall be used for the education or training of department employees which fulfills a need consistent with the objectives of the Department of Fish and Game.

(2) Once a month there shall be transferred into the Restitution Fund an amount equal to 32.02 percent of the state penalty funds deposited in the State Penalty Fund during the preceding month. Those funds shall be made available in accordance with Section 13967 of the Government Code.

(3) Once a month there shall be transferred into the Peace Officers' Training Fund an amount equal to 23.99 percent of the state penalty funds deposited in the State Penalty Fund during the preceding month.

(4) Once a month there shall be transferred into the Driver Training Penalty Assessment Fund an amount equal to 25.70 percent of the state penalty funds deposited in the State Penalty Fund during the preceding month.

(5) Once a month there shall be transferred into the Corrections Training Fund an amount equal to 7.88 percent of the state penalty funds deposited in the State Penalty Fund during the preceding

month. Money in the Corrections Training Fund is not continuously appropriated and shall be appropriated in the Budget Act.

(6) Once a month there shall be transferred into the Local Public Prosecutors and Public Defenders Training Fund established pursuant to Section 11503 an amount equal to 0.78 percent of the state penalty funds deposited in the State Penalty Fund during the preceding month. The amount so transferred shall not exceed the sum of eight hundred fifty thousand dollars ($850,000) in any fiscal year. The remainder in excess of eight hundred fifty thousand dollars ($850,000) shall be transferred to the Restitution Fund.

(7) Once a month there shall be transferred into the Victim-Witness Assistance Fund an amount equal to 8.64 percent of the state penalty funds deposited in the State Penalty Fund during the preceding month.

(8) (A) Once a month there shall be transferred into the Traumatic Brain Injury Fund, created pursuant to Section 4358 of the Welfare and Institutions Code, an amount equal to 0.66 percent of the state penalty funds deposited into the State Penalty Fund during the preceding month. However, the amount of funds transferred into the Traumatic Brain Injury Fund for the 1996–97 fiscal year shall not exceed the amount of five hundred thousand dollars ($500,000). Thereafter, funds shall be transferred pursuant to the requirements of this section.

(B) Any moneys deposited in the State Penalty Fund attributable to the assessments made pursuant to subdivision (i) of Section 27315 of the Vehicle Code on or after the date that Chapter 6.6 (commencing with Section 5564) of Part 1 of Division 5 of the Welfare and Institutions Code is repealed shall be utilized in accordance with paragraphs (1) to (8), inclusive, of this subdivision.

SEC. 58. Section 11205.1 is added to the Vehicle Code, to read:

11205.1. The fee authorized in subdivision (m) of Section 11205 shall be applicable only in those instances where a traffic violator has agreed to attend or has been ordered to attend a traffic violator school pursuant to Section 42005, a licensed driving school, or any other court-approved program for driving instruction.

SEC. 59. Section 42007 of the Vehicle Code is amended to read:

42007. (a) The clerk of the court shall collect a fee from every person who is ordered or permitted to attend a traffic violator school pursuant to Section 42005 or who attends any other court-supervised program of traffic safety instruction. The fee shall be in an amount equal to the total bail set forth for the eligible offense on the uniform countywide bail schedule. As used in this subdivision, “total bail” means the amount established pursuant to Section 1269b of the Penal Code in accordance with the Uniform Statewide Bail Schedule adopted by the Judicial Council, including all assessments, surcharges, and penalty amounts. Where multiple offenses are charged in a single notice to appear, the “total bail” is the amount applicable for the greater of the qualifying offenses. However, the

court may determine a lesser fee under this subdivision upon a showing that the defendant is unable to pay the full amount.

The fee shall not include the cost, or any part thereof, of traffic safety instruction offered by the school or other program.

(b) (1) Revenues derived from the fee collected under this section shall be deposited in accordance with Section 68084 of the Government Code in the general fund of the county, provided that in any county in which a fund is established pursuant to Section 76100 or 76101 of the Government Code, the sum of one dollar ($1) for each fund so established shall be deposited with the county treasurer and placed in that fund.

(2) Commencing July 1, 1998, for fees resulting from city arrests, an amount equal to the amount of base fines that would have been deposited in the treasury of the appropriate city pursuant to paragraph (3) of subdivision (b) of Section 1463.001 of the Penal Code shall be deposited in the treasury of the appropriate city.

(c) As used in this section, "court-supervised program" includes, but is not limited to, any program of traffic safety instruction the successful completion of which is accepted by the court in lieu of adjudicating a violation of this code.

(d) The Judicial Council shall study the minimum eligibility criteria governing drivers seeking to attend traffic violator's school, and report to the Legislature on the advisability of uniform statewide criteria on or before January 1, 1993.

(e) The clerk of the court, in a county that offers traffic school shall include in any courtesy notice mailed to a defendant for an offense that qualifies for traffic school attendance the following statement:

NOTICE: If you are eligible and decide not to attend traffic school your automobile insurance may be adversely affected.

SEC. 60. Section 42007.1 is added to the Vehicle Code, to read:

42007.1. (a) The fee collected by the clerk pursuant to subdivision (a) of Section 42007 shall be in an amount equal to the total bail set forth for the eligible offense on the uniform countywide bail schedule plus twenty-four dollars ($24).

(b) Notwithstanding subdivision (b) of Section 42007, the revenue from the twenty-four dollar ($24) fee collected under this section shall be deposited in the county general fund.

SEC. 61. The Judicial Council shall forward information regarding the fiscal impact of pending legislation affecting courts to the Legislature when the council deems that the information will assist the Legislature in its consideration of the legislation.

SEC. 62. (a) There shall be a Civil Delay Reduction Team comprised of judges assigned by and under the authority of the Chief Justice.

(b) The primary responsibility of the team is to assist counties and courts in reducing or eliminating the delay in adjudicating civil cases.

(c) Team judges will be assigned by the Chief Justice after taking into account the following.

(1) The number of delayed civil cases in each county and court.
(2) The delay in processing civil cases.
(3) The age of inventory of cases, with greater weight to be given to cases with a long delay without resolution.
(4) The average length of time needed to dispose of civil cases.
(5) The adverse impact on civil litigants.
(6) The likelihood that utilization of the team will encourage effective and efficient use of existing local court resources.

(d) Delay reduction team assignments shall be for the purpose of supplementing civil court resources, and shall not be made for the purpose of supplanting a judge currently assigned to the civil court calendar.

(e) During the 1997–98 fiscal year, special attention shall be given to those counties and courts where civil delay is much greater than the state average delay for all trial courts.

(f) The Judicial Council shall report to the Legislature annually on the assignment of team judges and the impact on civil case delay reduction.

(g) This section shall become inoperative on July 1, 1999, 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. 63. As provided in the Budget Act of 1997, of funds appropriated in Schedule (a) of Item 0450-101-0932 of the Budget Act of 1997, the Judicial Council shall transfer up to two million dollars ($2,000,000) to Schedule (c) of that item for support of the Civil Delay Reduction Team established by this act.

SEC. 64. No provision of this act shall be deemed to constitute a mandate upon a county because the state's assumption of increased funding support for the trial courts, pursuant to Section 77001 of the Government Code, effectively relieves a county of the responsibility to provide otherwise increasing funds to the trial courts to help finance their operations.

SEC. 65. No provision of this act shall be deemed to constitute a mandate upon a trial court because the state's assumption of increased funding support for the trial courts, pursuant to Section 77001 of the Government Code, directly benefits the trial courts through the provision of more adequate, consistent, and stable financial support for their operations.

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## CHAPTER 851

An act to add Article 19 (commencing with Section 69980) to Chapter 2 of Part 42 of the Education Code, and to amend Section 23735 of, and to add Sections 17140, 24306, and 24328 to, the Revenue

and Taxation Code, relating to postsecondary education, and making an appropriation therefor.

[Approved by Governor October 10, 1997. Filed with Secretary of State October 10, 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 general welfare and well-being of the State of California are directly related to the educational levels and skills of the citizens of the state. Therefore, a vital and valid public purpose of the state is served by the creation and implementation of programs that encourage and make possible the attainment of higher education by the greatest number of citizens of the state.

(b) The Legislature finds, declares, and recognizes that the State of California has limited resources to provide additional programs for higher education funding and that the continued operation and maintenance of the institutions of higher education in California and the general welfare of the citizens and the state will be enhanced by the creation of a program pursuant to which citizens and others may invest money in a public trust for future application to the payment of higher education expenses in the state and elsewhere and that the creation of a means of encouragement of citizens in the investment of funds for future higher education application represents the carrying out of a valid and vital public purpose of the State of California.

(c) In order to make available to the citizens of the state an opportunity to fund future higher education needs for beneficiaries with certain public assistance, and to ensure that California takes advantage of recent changes in tax law that will benefit this state's citizens, it is necessary that a public trust be established in which the citizens of the state and others may invest moneys for future educational use.

(d) A program, with a minimal impact on the state treasury, that encourages annual contributions in an amount equivalent to the maximum estimated qualified higher education expenses, as defined by subdivision (*l*) of Section 69980 and as established by the trust, that can be incurred by a beneficiary to obtain a baccalaureate degree at an institution of higher education in California for four years commencing in the year the majority of beneficiaries of that age are expected to be eligible to enroll in a higher education program, will assist those middle-class families and students finding it hardest to pay for higher education due to lack of savings, the high cost of loans, and the scarcity of grants and scholarships. An annual savings program will further encourage students to save for their own education at levels students can afford, will encourage the lifetime habit of saving

for things that are important, and will foster appreciation of the value of investing in one's own education.

(e) A program that encourages nonprofit organizations to accumulate funds for the awarding of scholarships for recipients to be designated in the future will benefit even the lowest income families and students in this state, who otherwise are unable to save sufficient amounts to pay for the expense of higher education.

(f) It is the intent of the Legislature to create the Golden State Scholarshare Trust as a self-sustaining trust, paying all costs of administration out of earnings on moneys on deposit therein. The implementation and effectuation of the Golden State Scholarshare Trust constitutes the carrying out of a valid and vital public purpose.

SEC. 2. Article 19 (commencing with Section 69980) is added to Chapter 2 of Part 42 of the Education Code, to read:

### Article 19. Golden State Scholarshare Trust Act

69980. As used in this article, the following terms have the following meanings, unless the context requires otherwise:

(a) "Act" or "Scholarshare trust" or "Scholarshare" means the Golden State Scholarshare Trust Act.

(b) "Administrative fund" means the funds used to administer the Golden State Scholarshare Trust Act.

(c) "Beneficiary" means any person designated by a participation agreement to benefit from payments for higher education expenses at an institution of higher education.

(d) "Benefits" means the payment of higher education expenses on behalf of a beneficiary by the Scholarshare trust during the beneficiary's attendance at an institution of higher education.

(e) "Commission" means the Student Aid Commission established pursuant to Section 69510.

(f) "Golden State Scholarshare Trust" or "Scholarshare trust" means the trust created pursuant to this act.

(g) "Institution of higher education" means a public college or university, a regionally accredited college or university, a state-approved college, university, or vocational-technical school, or any institution described in Section 1141(a) of Title 20 of the United States Code.

(h) "Participant" means an individual, firm, or corporation, or a legal representative of an individual, firm, or corporation who has entered into a participation agreement pursuant to this act for advance savings for higher education expenses on behalf of a beneficiary.

(i) "Participation agreement" means an agreement between a participant and the Scholarshare trust, pursuant to this act.

(j) "Program administrator" means the administrator of the Scholarshare trust appointed by the commission to administer and manage the trust.

(k) “Program fund” means the program fund established by this act, which shall be held as a separate fund within the Scholarshare trust.

(*l*) “Qualified higher education expenses” means the expenses of attendance at an institution of higher education as provided in Section 529(e)(3) of the Internal Revenue Code of 1986, and as determined and certified by the institution of higher education in the same manner as prescribed in Title IV of the Higher Education Act of 1965 (20 U.S.C. Sec. 1087ll, as amended).

(m) “Tuition and fees” means the quarterly or semester charges imposed to attend an institution of higher education and required as a condition of enrollment.

69981. (a) There is hereby created an instrumentality of the State of California to be known as the Golden State Scholarshare Trust.

(b) The purposes, powers, and duties of the trust are vested in, and shall be exercised by, the commission.

(c) The commission, in the capacity of trustee, shall have the power and authority to do all of the following:

(1) Sue and be sued.

(2) Make and enter into contracts necessary for the administration of the Scholarshare trust.

(3) Adopt a corporate seal and change and amend it from time to time.

(4) Cause moneys in the program fund to be held and invested and reinvested.

(5) Enter into agreements with any institution of higher education, the State of California, or any federal or other state agency or other entity as required for the effectuation of its rights and duties.

(6) Accept any grants, gifts, legislative appropriation, and other moneys from the state, any unit of federal, state, or local government or any other person, firm, partnership, or corporation for deposit to the administrative fund or the program fund. Except as otherwise provided in Section 69982, the trust may not accept any contribution by any nonpublic entity, person, firm, partnership, or corporation that is not designated for a specified beneficiary.

(7) Enter into participation agreements with participants, as set forth in Section 69983.

(8) Make payments to institutions of higher education pursuant to participation agreements on behalf of beneficiaries.

(9) Make refunds to participants upon the cancellation of participation agreements pursuant to the provisions, limitations, and restrictions set forth in this act.

(10) Appoint a program administrator and determine the duties of the program administrator and other staff as necessary and set their compensation.

(11) Make provisions for the payment of costs of administration and operation of the Scholarshare trust.

(12) Carry out the duties and obligations of the Scholarshare trust pursuant to this act and have any and all other powers as may be reasonably necessary for the effectuation of the purposes, objectives, and provisions of this act pertaining to the Scholarshare trust, as set forth in Section 69982.

(d) The commission shall adopt regulations as it deems necessary to implement this article consistent with the federal Internal Revenue Code and regulations issued pursuant to that code to ensure that this program meets all criteria for federal tax-deferral or tax-exempt benefits, or both.

69982. In addition to effectuating and carrying out all of the powers granted by this act, the commission shall have all powers reasonably necessary to carry out and effectuate the purposes, objectives, and provisions of this act pertaining to the Scholarshare trust, including, but not limited to, the power to do all of the following:

(a) Carry out studies and projections in order to advise participants regarding present and estimated future higher education expenses and the levels of financial participation in the trust required in order to enable participants to achieve their education funding objectives.

(b) Contract for goods and services and engage personnel as necessary, including consultants, actuaries, managers, counsel, and auditors for the purpose of rendering professional, managerial, and technical assistance and advice.

(c) Participate in any other way in any federal, state, or local governmental program for the benefit of the Scholarshare trust.

(d) Promulgate, impose, and collect administrative fees and charges in connection with transactions of the Scholarshare trust, and provide for reasonable service charges, including penalties for cancellations.

(e) Procure insurance against any loss in connection with the property, assets, or activities of the Scholarshare trust.

(f) Administer the funds of the Scholarshare trust.

(g) Procure insurance indemnifying any member of the commission from personal loss or liability resulting from a member's action or inaction as a member of the commission.

(h) Adopt reasonable regulations for the administration of the Scholarshare trust.

(i) Set minimum and maximum investment levels and annual contribution limits.

(j) (1) Except as otherwise provided in this section, the overall maximum investment level for a designated beneficiary shall not exceed the amount equivalent to the maximum estimated qualified higher education expenses, as defined by subdivision (*l*) of Section 69980 and established by the trust, that can be incurred by a beneficiary to obtain a baccalauraeate degree at an institution of higher education in California for four years commencing in the year

the majority of beneficiaries of that age are expected to be eligible to enroll in a higher education program for four years. The maximum investment level shall be published by the trust as a monetary amount by year group, in order to state contribution limits clearly and to encourage participation on behalf of beneficiaries who will attend all types of higher education institutions, both public and independent.

(2) The maximum annual contribution shall be set at an amount which, if contributed over 16 years, would reach the maximum investment level for beneficiaries of that age, according to the actuarial projections of the trust or of the actuaries engaged by the trust.

(3) Notwithstanding paragraphs (1) and (2), participants shall be permitted to make up payments, in full or in part, for years in which they were eligible to contribute, but did not, or in which they contributed less than the maximum amount they were eligible to contribute, including years prior to the enactment of this section, for the benefit of a designated beneficiary. Contributions by entities exempt from taxation pursuant to Section 501(c)(3) of the Internal Revenue Code operating bona fide scholarship programs for the benefit of beneficiaries to be named when the scholarships are awarded and contributions to the scholarship account of the program fund are not subject to maximum or annual contribution limits.

69983. The Scholarshare trust may enter into participation agreements with participants on behalf of beneficiaries pursuant to the following terms and agreements:

(a) Each participation agreement shall require a participant to agree to invest a specific amount of money in the trust for a specific period of time for the benefit of a specific beneficiary. The commission may specify a required minimum length of time before distributions for higher education expenses may be made and may impose a penalty on the early distribution of funds if deemed by the trust to be necessary.

(b) Participation agreements may be amended to provide for adjusted levels of payments based upon changed circumstances or changes in educational plans.

(c) Beneficiaries designated in participation agreements may be designated from date of birth.

(d) Participants shall be informed that the execution of a participation agreement by the trust shall not guarantee in any way that higher education expenses will be equal to projections and estimates provided by the trust or that the beneficiary named in any participation agreement will do any of the following:

(1) Be admitted to an institution of higher education.

(2) If admitted, be determined a resident for tuition purposes by the institution of higher education.

(3) Be allowed to continue attendance at the institution of higher education following admission.

(4) Graduate from the institution of higher education.

(5) Have sufficient savings to cover fully all qualified education expenses of attending an institution of higher education.

(e) Beneficiaries may be changed as permitted by the regulations of the commission upon written request of the participant prior to the date of admission of any beneficiary under a participation agreement by an institution of higher education provided that the substitute beneficiary is eligible.

(f) Participation agreements shall be freely amended throughout their terms in order to enable participants to increase or decrease the level of participation, change the designation of beneficiaries, and carry out similar matters.

(g) Each participation agreement shall provide that the participation agreement may be canceled upon the terms and conditions, and upon payment of a penalty, set forth and contained in the regulations adopted by the commission.

(h) All contributions to Scholarshare accounts shall be in cash.

69984. (a) (1) The commission shall segregate moneys received by the Scholarshare trust into two funds, which shall be identified as the program fund and the administrative fund. Notwithstanding Section 13340 of the Government Code, the program fund is hereby continuously appropriated, without regard to fiscal years, to the commission for the purposes of this article. Funds in the administrative fund shall be available for expenditure, upon appropriation, for the purposes specified in this article.

(2) (A) The trust shall separately account for any moneys received by an entity exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, depositing the money for the benefit of a beneficiary to be named later pursuant to the operation of a bona fide scholarship program.

(B) There is hereby created the Scholarshare Investment Board, which shall consist of the Treasurer, the Director of Finance, and the chief executive officer of the commission. The Treasurer shall serve as chair of the board. The board shall annually prepare and adopt a written statement of investment policy. The board shall consider the statement of investment policy and any changes in the investment policy at a public hearing. The board shall approve the investment management entity or entities consistent with subparagraph (C). Not later than 30 days after the close of each month there shall be placed on file for public inspection during business hours a report with respect to investments made pursuant to this section and a report of deposits in financial institutions. The investment manager shall report the following information to the board within 30 days following the end of the each month:

(i) The type of investment, name of the issuer, date of maturity, par and dollar amount invested in each security, investment, and money within the program fund.

(ii) The weighted average maturity of the investments within the program fund.

(iii) Any amounts in the program fund that are under the management of private money managers.

(iv) The market value as of the date of the report and the source of this valuation for any security within the program fund.

(v) A description of the compliance with the statement of investment policy.

(C) Moneys in the program fund may be invested or reinvested by the Treasurer or may be invested in whole or in part under contract with private money managers, as determined by the Scholarshare Investment Board.

(b) Transfers may be made from the program fund to the administrative fund for the purpose of paying operating costs associated with administering the trust and as required by this act. On an annual basis, expenditures from the administrative fund shall not exceed more than 1 percent of the total program fund. All costs of administration of the trust shall be paid out of the administration fund.

(c) All moneys paid by participants in connection with participation agreements shall be deposited as received into the program fund and shall be promptly invested and accounted for separately. Deposits and interest thereon accumulated on behalf of participants in the program fund of the Scholarshare trust may be used for payments to any institution of higher education.

69985. (a) Any participant may cancel a participation agreement at will. Participants shall be entitled to a refund upon cancellation thereof of an amount equal to the then current market value of the amount of all contributions made to their account, less a penalty with respect to the interest earned thereon to be levied by the Scholarshare trust that shall be more than de minimis.

(b) Upon the occurrence of any of the following circumstances, no penalty shall be levied by the Scholarshare trust in the event of cancellation of a participation agreement:

(1) Death or disability of the beneficiary.

(2) The beneficiary's receipt of a scholarship or allowance or payment described in Section 135(d)(1)(B) or (C) of the Internal Revenue Code received by the designated beneficiary, to the extent that the amount refunded does not exceed the amount of the scholarship, allowance, or payment.

(c) In the event of cancellation of a participation agreement for any of the causes listed in subdivision (b), the participant shall be entitled to a refund equal to the then current market value of the amount of all contributions made by the participant under the participation agreement.

(d) Any cancellation of a participation agreement shall be deemed to be made as of the close of business for the calendar month during which notice of the cancellation is received by the commission

and the current market value of contributions as of that date shall be determined by utilizing the monthly report for that month pursuant to subparagraph (C) of paragraph (2) of subdivision (a) of Section 69984.

69986. For all purposes of California law, the following apply:

(a) The participant shall retain ownership of all payments made under any participation agreement up to the date of utilization for payment of higher education costs for the beneficiary, and all interest derived from the investment of the payments made by the participant shall be deemed to be held in trust for the benefit of the beneficiary. No interest earned on any account in the trust may be pledged as collateral for any loan.

(b) In the event the participation agreement is canceled prior to payment of higher education expenses for the beneficiary, the participant shall retain ownership of all contributions made under the participation agreement and reversionary right to receive interest on all the contributions at the rate of interest at which the contributions were invested.

(c) Notwithstanding subdivision (b), if there has been a decrease in the value of the funds in a participant's account at the time of cancellation of the participation agreement, the participant shall not have ownership rights to any amount above the market value of the funds in the account at the time of cancellation.

(d) Program administrators shall develop adequate measures to prevent contributions on behalf of a designated beneficiary in excess of those necessary to provide for the qualified higher education expenses of the beneficiary or in excess of the maximum or annual contribution limits provided for herein.

(e) If the beneficiary graduates from an institution of higher education, and a balance remains in the participant's account, then the program administrator shall pay the balance to the participant. The administrator shall impose a penalty that is more than de minimis.

(f) Program administrators shall develop a method to make payment of qualified higher education expenses directly to higher education institutions for the benefit of designated beneficiaries and to control for fraud under any direct reimbursement method of payment that it may adopt. The institution of higher education shall obtain ownership of the payments made for the higher education expenses paid to the institution at the time each payment is made to the institution.

(g) Any amounts paid pursuant to the Golden State Scholarshare Trust that are not listed in this section shall be owned by the trust.

(h) A participant may transfer ownership rights to another eligible participant, including, but not limited to, a gift of the ownership rights to an eligible minor beneficiary pursuant to this act. The transfer shall be effected and the property distributed in

accordance with administrative regulations adopted by the commission or the terms of the participation agreement.

69989. (a) The commission shall submit an annual audited financial report, prepared in accordance with generally accepted accounting principles, on the operations of the Scholarshare trust by August 1 to the Governor, the Controller, the State Auditor, and the Legislature. The annual audit shall be made by an independent certified public accountant and shall include, but not be limited to, direct and indirect costs attributable to the use of outside consultants, independent contractors, and any other persons who are not state employees. Any contributions to the Scholarshare trust fund that are not directed to a specified beneficiary shall be accounted for and treated separately in the annual audit.

(b) The annual audit shall be supplemented by the following information prepared by the commission:

(1) Any studies or evaluations prepared in the preceding year.

(2) A summary of the benefits provided by the trusts including the number of participants and beneficiaries in the trust.

(3) Any other information that is relevant in order to make a full, fair, and effective disclosure of the operations of the Scholarshare trust.

69990. (a) The trust shall provide an annual listing to the Franchise Tax Board on magnetic tape or other machine-readable form, and in a manner agreed upon by the Franchise Tax Board and the Scholarshare trust, of all distributions, including payment of benefits and refunds, to any individual with respect to an interest in a participation agreement. The listing shall include the names, addresses, tax identification numbers, and type and amounts of each distribution, including interest earned and administration refund levied. The taxpayer's identification numbers obtained through the participation agreement process shall be used exclusively for state tax administration purposes.

(b) The trust shall make a report to each participant or beneficiary of the type and amount of each distribution, including payment of benefits and refunds.

(c) The trust also shall report annually by March 1 to each participant or beneficiary all of the following:

(1) The value of the beneficiary's account.

(2) The interest earned thereon.

(3) The rate of return of the investments in the beneficiary's account for that reporting period.

(4) The investment goal the participant will achieve if all future contributions with respect to that beneficiary are timely made.

(5) The amount of any missed contributions that the participant is eligible to make up.

(6) Information regarding the trends in qualified higher education expenses at the state's public segments of higher

education, which shall include, but need not be limited to, the following:

(A) The actual increase or decrease in qualified higher education expenses in the prior year.

(B) To the extent possible, any proposals by the segments to increase or decrease fees or tuition in the next fiscal year.

(C) To the extent possible, any proposals by the Legislature or the Governor to increase or decrease fees or tuition in the next fiscal year.

(D) The names of the State Senator and Assembly Member who represent the district in which the participant or beneficiary resides and a business address and telephone number where they may be reached.

(d) The trust, as an advocate for affordable higher education opportunities for participants and beneficiaries of the program, shall also provide a means for participants or beneficiaries to express concerns or comments regarding the Scholarshare program and any information required to be reported by this section.

69991. The assets of the trust, including the program fund, shall at all times be preserved, invested, and expended solely and only for the purposes of the trust and shall be held in trust for the participants and beneficiaries and no property rights therein shall exist in favor of the state. The assets shall not be transferred or used by the State of California for any purposes other than the purposes of the trust.

69992. The trust shall aggressively market this program to the citizens of the State of California. The trust shall include in its marketing efforts information designed to educate citizens about the benefits of saving for higher education and information to help them decide the level of Scholarshare participation and the combination of savings strategies that may be appropriate for them. The trust shall also develop a mechanism to keep participants in this program motivated about their current and future academic endeavors.

69993. Funding for startup and first-year administrative costs shall be appropriated from the General Fund in the annual Budget Act. The trust shall repay, within five years, the amount appropriated plus interest calculated at the rate earned by the Pooled Money Investment Account. Necessary administrative costs in future years shall be paid out of the administrative fund.

69994. This act shall be construed liberally in order to effectuate its legislative intent. The purposes of this act and all of its provisions with respect to powers granted shall be broadly interpreted to effectuate that intent and purposes and not as to any limitation of powers.

SEC. 3. Section 17140 is added to the Revenue and Taxation Code, to read:

17140. (a) For purposes of this section, the following terms have the following meanings as provided in the Golden State Scholarshare Trust Act (Art. 19 (commencing with Section 69980), Ch. 2, Pt. 42, Ed. C.):

(1) “Beneficiary” has the meaning set forth in subdivision (c) of Section 69980 of the Education Code.

(2) “Benefit” has the meaning set forth in subdivision (d) of Section 69980 of the Education Code.

(3) “Participant” has the meaning set forth in subdivision (h) of Section 69980 of the Education Code.

(4) “Participation agreement” has the meaning set forth in subdivision (i) of Section 69980 of the Education Code.

(5) “Scholarshare trust” has the meaning set forth in subdivision (f) of Section 69980 of the Education Code.

(b) Except as otherwise provided in subdivision (c), gross income of a beneficiary or a participant does not include any of the following:

(1) Any distribution or earnings under a Scholarshare trust participation agreement, as provided in Article 19 (commencing with Section 69980) of Chapter 2 of Part 42 of the Education Code.

(2) Contributions to the Scholarshare trust on behalf of a beneficiary shall not be includable as gross income of that beneficiary.

(c) (1) Any distribution under a Scholarshare trust participation agreement shall be includable in the gross income of the distributee in the manner as provided under Section 72 of the Internal Revenue Code, as modified by Section 17085, to the extent not excluded from gross income under any other provision of this part. For purposes of applying Section 72 of the Internal Revenue Code, the following apply:

(A) All Scholarshare trust accounts of which an individual is a beneficiary shall be treated as one account, except as otherwise provided.

(B) All distributions during a taxable year shall be treated as one distribution.

(C) The value of the participation agreement, income on the participation agreement, and investment in the participation agreement shall be computed as of the close of the calendar year in which the taxable year begins.

(2) A contribution by a for-profit or nonprofit entity for the benefit of an owner or employee of that entity or a beneficiary whom the owner or employee has the power to designate, including the owner or employee’s minor children, shall be included in the gross income of that owner or employee in the year the contribution is made.

(3) For purposes of this subdivision, “distribution” includes any benefit furnished to a beneficiary under a participation agreement, as provided in Article 19 (commencing with Section 69980) of Chapter 2 of Part 42 of the Education Code.

(4) (A) Paragraph (1) shall not apply to that portion of any distribution that, within 60 days of distribution, is transferred to the credit of another beneficiary under the Scholarshare trust who is a “member of the family,” as that term is used in Section 2032A(e)(2)

of the Internal Revenue Code, of the former beneficiary of that Scholarshare trust.

(B) Any change in the beneficiary of an interest in the Scholarshare trust shall not be treated as a distribution for purposes of paragraph (1) if the new beneficiary is a "member of the family," as that term is used in Section 2032A(e)(2) of the Internal Revenue Code, of the former beneficiary of that Scholarshare trust.

(d) For purposes of determining adjusted gross income, Section 62(a)(9) of the Internal Revenue Code shall not apply to any amount forfeited upon distribution of an account created pursuant to a participation agreement.

SEC. 4. Section 23735 of the Revenue and Taxation Code is amended to read:

23735. (a) Section 514 of the Internal Revenue Code, relating to unrelated debt-financed income, shall apply, except as otherwise provided.

(b) Section 10214 of Public Law 100-203, relating to the treatment of certain partnership allocations, shall apply to income years beginning on or after January 1, 1990, for property acquired by the partnership after October 13, 1987, and partnership interests acquired after October 13, 1987.

(c) An interest in a participation agreement, as defined in subdivision (i) of Section 69980 of the Education Code, shall not be treated as debt.

SEC. 5. Section 24306 is added to the Revenue and Taxation Code, to read:

24306. (a) For purposes of this section, the following terms have the following meanings, as provided in the Golden State Scholarshare Trust Act (Art. 19 (commencing with Section 69980), Ch. 2, Pt. 42, Ed. C.):

(1) "Beneficiary" has the meaning set forth in subdivision (c) of Section 69980 of the Education Code.

(2) "Benefit" has the meaning set forth in subdivision (d) of Section 69980 of the Education Code.

(3) "Participant" has the meaning set forth in subdivision (h) of Section 69980 of the Education Code.

(4) "Participation agreement" has the meaning set forth in subdivision (i) of Section 69980 of the Education Code.

(5) "Scholarshare trust" has the meaning set forth in subdivision (f) of Section 69980 of the Education Code.

(b) Except as otherwise provided in subdivision (c), gross income of a participant shall not include any of the following:

(1) Any earnings under a Scholarshare trust, or a participation agreement, as provided in Article 19 (commencing with Section 69980) of Chapter 2 of Part 42 of the Education Code.

(2) Contributions to the Scholarshare trust on behalf of a beneficiary shall not be includable as gross income of that beneficiary.

(c) (1) Any distribution under a Scholarshare trust participation agreement shall be includable in the gross income of the distributee in the manner as provided under Section 72 of the Internal Revenue Code, as modified by Section 24272.2, to the extent not excluded from gross income under any other provision of this part. For purposes of applying Section 72 of the Internal Revenue Code, the following apply:

(A) All Scholarshare trust accounts of which an individual is a beneficiary shall be treated as one account, except as otherwise provided.

(B) All distributions during an income year shall be treated as one distribution.

(C) The value of the participation agreement, income on the participation agreement, and investment in the participation agreement shall be computed as of the close of the calendar year in which the income year begins.

(2) A contribution by a for-profit or nonprofit entity for the benefit of an owner or employee of that entity or a beneficiary whom the owner or employee has the power to designate, including the owner or employee's minor children, shall be included in the gross income of that owner or employee in the year the contribution is made.

(3) For purposes of this subdivision, "distribution" includes any benefit furnished to a beneficiary under a participation agreement, as provided in Article 19 (commencing with Section 69980) of Chapter 2 of Part 42 of the Education Code.

(4) (A) Paragraph (1) shall not apply to that portion of any distribution that, within 60 days of distribution, is transferred to the credit of another beneficiary under the Scholarshare trust who is a "member of the family," as that term is used in Section 2032A(e)(2) of the Internal Revenue Code, of the former beneficiary of that Scholarshare trust.

(B) Any change in the beneficiary of an interest in the Scholarshare trust shall not be treated as a distribution for purposes of paragraph (1) if the new beneficiary is a "member of the family," as that term is used in Section 2032A(e)(2) of the Internal Revenue Code, of the former beneficiary of that Scholarshare trust.

SEC. 6. Section 24328 is added to the Revenue and Taxation Code, to read:

24328. The Golden State Scholarshare Trust, established pursuant to Article 19 (commencing with Section 69980) of Chapter 2 of Part 42 of the Education Code, is an instrumentality of this state and the income of the Scholarshare trust shall be exempt from taxes imposed under this part. The Scholarshare trust is established and shall be maintained as a qualified state tuition program as defined in Section 529 of the Internal Revenue Code, as added by Section 1806 of the Small Business Job Protection Act of 1996 (P.L. 103-188).

SEC. 7. It is the intent of the Legislature that the Golden State Scholarshare Trust be maintained as a qualified state tuition program as provided in Section 529 of the Internal Revenue Code. In applying that section, the Franchise Tax Board shall interpret and apply Article 19 (commencing with Section 69980) of Chapter 2 of Part 42 of the Education Code and Sections 17140, 23735, and 24306 of the Revenue and Taxation Code in a manner consistent with Section 529 of the Internal Revenue Code and any regulations issued under that section. Any ambiguities shall be resolved consistent with Section 529 of the Internal Revenue Code and any future amendments.

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## CHAPTER 852

An act to add Section 1463.11 of the Penal Code, and to amend Section 42001 of, and to add Sections 42001.15 and 42007.3 to, the Vehicle Code, relating to vehicles.

[Approved by Governor October 10, 1997. Filed with Secretary of State October 10, 1997.]

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

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

(a) Running a red light is a serious offense that causes death, injury, and destruction of property, and particularly endangers pedestrians, senior citizens, children, and the physically disabled.

(b) The automobile accidents caused by drivers running red lights greatly increase the cost of municipal government, requiring police, fire, and ambulance responses, as well as medical care, frequently involving public hospitals.

(c) The horrific accidents caused by drivers who run red lights continue to be a major source of traffic accidents in California.

(d) The current fines are insufficient for a traffic offense that is as serious and potentially life threatening as running a red light.

(e) An increase in the base fine to not less than one hundred dollars ($100) would significantly decrease the number of red light violations, thereby saving lives, reducing personal injury and property damage, and lowering the costs of municipal government required to deal with accidents caused by red light violators.

SEC. 2. Section 1463.11 is added to the Penal Code, to read:

1463.11. Notwithstanding Sections 1463 and 1464 of this code and Section 76000 of the Government Code, moneys that are collected for a violation of subdivision (a) or (c) of Section 21453 of, subdivision (c) of Section 21454 of, or subdivision (a) of Section 21457 of, the Vehicle Code, and which are required to be deposited with the

county treasurer pursuant to Section 1463 of this code shall be allocated as follows:

(a) The first 30 percent of the amount collected shall be allocated to the general fund of the city or county in which the offense occurred.

(b) The balance of the amount collected shall be deposited by the county treasurer under Sections 1463 and 1464.

SEC. 3. Section 42001 of the Vehicle Code is amended to read:

42001. (a) Except as provided in Section 42000.5, 42001.1, 42001.2, 42001.3, 42001.5, 42001.7, 42001.8, 42001.9, 42001.11, 42001.12, 42001.14, or 42001.15, or subdivision (b) or (c) of this section, or Article 2 (commencing with Section 42030), every person convicted of an infraction for a violation of this code or of any local ordinance adopted pursuant to this code shall be punished as follows:

(1) By a fine not exceeding one hundred dollars ($100).

(2) For a second infraction occurring within one year of a prior infraction which resulted in a conviction, a fine not exceeding two hundred dollars ($200).

(3) For a third or any subsequent infraction occurring within one year of two or more prior infractions which resulted in convictions, a fine not exceeding two hundred fifty dollars ($250).

(b) Every person convicted of a misdemeanor violation of Section 2800, 2801, or 2803, insofar as they affect failure to stop and submit to inspection of equipment or for an unsafe condition endangering any person, shall be punished as follows:

(1) By a fine not exceeding fifty dollars ($50) or imprisonment in the county jail not exceeding five days.

(2) For a second conviction within a period of one year, a fine not exceeding one hundred dollars ($100) or imprisonment in the county jail not exceeding 10 days, or both that fine and imprisonment.

(3) For a third or any subsequent conviction within a period of one year, a fine not exceeding five hundred dollars ($500) or imprisonment in the county jail not exceeding six months, or both that fine and imprisonment.

(c) A pedestrian convicted of an infraction for a violation of this code or any local ordinance adopted pursuant to this code shall be punished by a fine not exceeding fifty dollars ($50).

(d) Notwithstanding any other provision of law, any local public entity that employs peace officers, as designated under Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, the California State University, and the University of California may, by ordinance or resolution, establish a schedule of fines applicable to infractions committed by bicyclists within its jurisdiction. Any fine, including all penalty assessments and court costs, established pursuant to this subdivision shall not exceed the maximum fine, including penalty assessment and court costs, otherwise authorized by this code for that violation. If a bicycle fine schedule is adopted, it shall be used by the courts having jurisdiction over the area within

which the ordinance or resolution is applicable instead of the fines, including penalty assessments and court costs, otherwise applicable under this code.

SEC. 4. Section 42001.15 is added to the Vehicle Code, to read:

42001.15. Every person convicted of an infraction for a violation of subdivision (a) or (c) of Section 21453, subdivision (c) of Section 21454, or subdivision (a) of Section 21457 shall be punished by a fine of one hundred dollars ($100).

SEC. 5. Section 42007.3 is added to the Vehicle Code, to read:

42007.3. (a) Notwithstanding Section 42007, revenues derived from fees collected under Section 42007 from each person required or permitted to attend traffic violator school pursuant to Section 42005 as a result of a violation of subdivision (a) or (c) of Section 21453, subdivision (c) of Section 21454, or subdivision (a) of Section 21457 shall be allocated as follows:

(1) The first 30 percent of the amount collected shall be allocated to the general fund of the city or county in which the offense occurred.

(2) The balance of the amount collected shall be deposited by the county treasurer under Section 42007.

(b) This section does not apply to the additional twenty-four dollars ($24) collected under subdivision (a) of Section 42007.1.

SEC. 6. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

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

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## CHAPTER 853

An act to add Section 66025 to the Education Code, relating to postsecondary education, and making an appropriation therefor.

[Approved by Governor October 10, 1997. Filed with Secretary of State October 10, 1997.]

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

SECTION 1. Section 66025 is added to the Education Code, to read:

66025. (a) Systemwide fees charged to resident undergraduate students at the University of California and the California State University shall be reduced for the 1998–99 fiscal year by 5 percent below the level charged during the 1997–98 fiscal year, and the systemwide fees charged to those students for the 1999–2000 fiscal year shall be the same as the systemwide fees established for those students for the 1998–99 fiscal year. Systemwide fees charged to resident graduate students and resident students pursuing a course of study leading to a professional degree at the University of California and the California State University for each of the 1998–99 and 1999–2000 fiscal years shall be established at the same level as established for those resident students for the 1997–98 fiscal year.

Notwithstanding Section 76300, the fee per unit per semester charged to resident undergraduate students at the California Community Colleges during each of the 1998–99 and 1999–2000 fiscal years shall be twelve dollars ($12).

(b) No provision of this section shall apply to the University of California except to the extent that the Regents of the University of California, by appropriate resolution, make that provision applicable.

SEC. 2. (a) The Legislature hereby declares its intent to appropriate sufficient funds to the University of California, the California State University, and the California Community Colleges in the Budget Acts of 1998 and 1999 and any subsequent budget acts to cover any reduction in funds caused by the enactment of Section 1 of this act.

(b) The sum of forty-one million nine hundred thousand dollars ($41,900,000) is hereby appropriated from the General Fund to the Controller for allocation as follows:

(1) Twenty-two million five hundred thousand dollars ($22,500,000), or as much thereof as is necessary, to the University of California for the 1998–99 fiscal year for the purpose of fully reimbursing the University of California for fiscal losses resulting from the fee reduction provided by this act. This allocation is contingent upon the University of California implementing the fee reduction for the 1998–99 fiscal year.

(2) Nineteen million four hundred thousand dollars ($19,400,000), or as much thereof as is necessary, to the California State University for the 1998–99 fiscal year for the purpose of fully reimbursing the California State University for fiscal losses resulting from the fee reduction provided by this act.

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## CHAPTER 854

An act to amend Sections 44903.7, 48915.5, 56100, 56140, 56156.5, 56167, 56190, 56200, 56325, 56342, 56360, 56361, 56362, 56366.2, 56441.14, and 56500 of, to amend and repeal Sections 56210, 56213,

56214, 56214.5, 56217, 56218, 56364, and 56370 of, to amend, repeal, and add Sections 56211, 56212, 56425, 56425.5, 56426, 56426.1, 56426.2, 56426.25, 56426.4, 56427, 56429, and 56430 of, to add Sections 56364.5, 56366.9, and 56432 to, to add Chapter 2.5 (commencing with Section 56195) and Chapter 7.2 (commencing with Section 56836) to, and to add Article 1.1 (commencing with Section 56205) to Chapter 3 of, Part 30 of, to add and repeal Sections 56202 and 56832 of, to add and repeal Chapter 7.1 (commencing with Section 56835) of Part 30 of, to repeal Sections 56448 and 56449 of, to repeal Article 6 (commencing with Section 56170) of Chapter 2 of, to repeal Article 1 (commencing with Section 56200) and Article 2 (commencing with Section 56220) of Chapter 3 of, Part 30 of, and to repeal Chapter 4.3 (commencing with Section 56400) and Chapter 7 (commencing with Section 56700) of Part 30 of, the Education Code, relating to special education, and making an appropriation therefor.

[Approved by Governor October 10, 1997. Filed with Secretary of State October 10, 1997.]

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

SECTION 1. (a) This act shall be known and may be cited as the Poochigian and Davis Special Education Reform Act.

(b) The Legislature hereby finds and declares the following:

(1) On December 1, 1995, approximately 9.4 percent of the 5,467,224 pupils enrolled in kindergarten and grades 1 to 12, inclusive, in California required some form of special education programming or service.

(2) Significant inequities in funding for special education exist in California. Special education funding derives from the value of a local education agency's various instructional personnel services unit rates plus the funds it generates from multiplying the total unit values by the agency's support services ratio. Since these values and ratios vary greatly among the local education agencies, widely disparate funding amounts are generated for the same type of program among local education agencies.

(3) In the 1994–95 fiscal year, the following range in funding amounts existed for each of the four types of instructional personnel services units providing services to the nonseverely disabled:

| Unit Type | Lowest | Highest |
|---|---|---|
| Special classes and centers | $31,137 | $80,044 |
| Resource specialists | $26,064 | $84,579 |
| Designated instruction and services | $30,080 | $91,760 |
| Instructional aides | $ 9,601 | $49,883 |

(4) The range in funding amounts in the 1994–95 fiscal year was even greater for instructional personnel services units for special education services for severely disabled pupils in special education classes, as follows:

| Unit Type | Lowest | Highest |
|---|---|---|
| Special classes and centers | $31,137 | $89,181 |
| Instructional aides | $ 9,601 | $55,577 |

(5) Equalization aid has not been provided to correct the disparities in special education funding since the Master Plan for Special Education was enacted for statewide implementation in 1980. Consequently, funding figures, based primarily on expenditures made in the base year 1979–80, are still being used.

(6) In recent years, some additional money has been provided to school districts to equalize revenue limit funding for regular education programs, and school districts with lower base revenue limits have had those revenue limits increased, resulting in those school districts attaining a base revenue limit that is closer to the statewide average.

(7) In February 1994, the Legislative Analyst, in the “Analysis of the 1994–95 Budget Bill,” cited a number of major problems with the state’s current special education funding formula. Among the shortfalls cited included:

(A) Unjustified funding variation among local education agencies.

(B) Unnecessary complexity.

(C) Constraint on local innovation and on responses to changing requirements.

(D) Inappropriate fiscal incentives related to special education placements.

(8) The current method of funding special education programs unduly influences the manner and methods through which special education services are provided and inhibits the ability of local education agencies to appropriately individualize the provision of special education services to individuals with exceptional needs.

(9) Existing law provides for the annual calculation of additional instructional personnel services necessary to address the enrollment growth in special education programs. Over the last four years, the number of additional instructional personnel service units actually funded to address the enrollment growth has been well under one-half the number for which the calculation provides:

| Fiscal Year | Calculated Need | Amount Funded | Percent Funded |
|---|---|---|---|
| 1993-94 | $ 87,259,893 | $ 30,376,332 | 34.8 |

| | | | |
|---|---|---|---|
| 1994-95 | 106,704,203 | 51,947,000 | 48.7 |
| 1995-96 | 99,634,692 | 31,589,000 | 31.7 |
| 1996-97 | 134,444,158 | 56,887,715 | 42.3 |

(10) Individuals with exceptional needs and their families are protected by provisions of the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. Sec. 794), the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.), and federal regulations relating thereto. These protections include, but are not limited to, the following:

(A) Individuals with exceptional needs shall be identified, located, and appropriately evaluated in a nondiscriminatory manner.

(B) Individuals with exceptional needs have the right to a free appropriate public education pursuant to an individualized education program developed by local education agency representatives in partnership with the individual's parents.

(C) Individuals with exceptional needs and their families shall receive prior notification whenever a local educational agency intends or refuses to initiate the evaluation of the individual with exceptional needs.

(D) Whenever a local educational agency intends to change the educational placement of an individual with exceptional needs, the individual with exceptional needs and his or her family may review the contents of any records or other materials used to make educational decisions regarding the individual with exceptional needs.

(E) Due process protections, including the protection of seeking redress in the courts.

(11) The protections set forth in paragraph (10) and other requirements of federal law and regulations shall not be adversely affected or negated by any changes to state law which may occur from this act.

SEC. 2. It is the intent of the Legislature, in enacting this act, to accomplish the following:

(a) To establish a funding mechanism that:

(1) Ensures greater equity in funding among special education local plan areas so that pupils with exceptional needs receive the necessary level of services regardless of their geographical location.

(2) Eliminates financial incentives to inappropriately place pupils in special education programs.

(3) Recognizes the interaction among funding for special education programs and services, revenue limits for school districts, and funding for categorical programs.

(4) Phases in the newly developed funding formula on a gradual basis so as not to disrupt educational services to pupils enrolled in general or special education programs.

(5) Requires fiscal and program accountability in a manner that ensures effective services are provided to pupils who require special education services in compliance with federal laws and regulations and ensures that federal and state funds are used for the intended special education purposes.

(6) Establishes a funding formula that is understandable and avoids unnecessary complexity.

(b) To recognize and establish the following principles to guide the new funding mechanism:

(1) Allocations to special education local plan areas encourage and support an areawide approach to service delivery that incorporates collaborative administration and coordination of special education services within an area, allows for the tailoring of the organizational structures to differing population densities and demographic attributes, and provides local flexibility for the planning and provision of special education services in an efficient and cost-effective manner.

(2) Allocations to special education local plan areas are best based on a neutral factor such as total pupil population in the special education local plan area.

(3) Local education agencies need the flexibility to adopt innovative approaches to the delivery of special education services.

(c) It is also the intent of the Legislature that alternative delivery systems that include effective schoolwide and districtwide screening practices, the development of effective teaching and intervention strategies, and regular and special education program collaboration, including team teaching, consultation, and home-school partnerships, be fully utilized in the identification process so as to prevent pupils from needing special education services.

(d) It is further the intent of the Legislature that the new funding mechanism based on total pupil population, does not create, in any way, a disincentive to identify and serve pupils with exceptional needs or eliminate or reduce the continuum of placement options.

SEC. 3. The Legislature further finds and declares as follows:

(a) It is the intent of the Legislature to equalize special education program funding imbalances among local education agencies in the 1997–98 fiscal year, pursuant to Chapter 7.1 (commencing with Section 56835) of Part 30 of the Education Code, only to the extent that funds are provided for that purpose in the Budget Act of 1997 or in this act. It is further the intent of the Legislature to implement a population-based funding formula in the 1998–99 fiscal year, pursuant to Chapter 7.2 (commencing with Section 56836) of Part 30 of the Education Code, to allocate special education program funds instead of instructional personnel service units to the special education local plan areas, and to equalize per-pupil funding among the special education local plan areas over a multiyear period, only to the extent that funds are appropriated for those purposes in the annual Budget Act.

(b) As part of the new special education funding system, this act proposes to achieve local administrative savings by simplifying the administrative processes of the current funding system that govern the activities of special education local plan areas, school districts, and county offices of education. Specifically, this act eliminates the process-intensive J-50 claim system that drains local resources away from providing services to completing numerous, lengthy reports in order to secure state funding for special education. To ensure program accountability when the resource-based funding system is replaced by the population-based funding system, this act also provides for additional information to be included in each local plan that will provide the public and other units of government specific information on how services shall be provided and funded. The Legislature finds and declares that the administrative savings resulting from this act will more than offset any increased costs from any new administrative workload resulting from this act.

(c) It is further the intent of the Legislature that the funds provided for equalization entitlements pursuant to this act shall fully compensate any mandated costs associated with maintaining pupil caseload for the purpose of any cost claim filed with the Commission on State Mandates.

SEC. 4. Section 44903.7 of the Education Code is amended to read:

44903.7. When a local plan for the education of individuals with exceptional needs is developed or revised pursuant to Chapter 2.5 (commencing with Section 56195) of Part 30, the following provisions shall apply:

(a) Whenever any certificated employee, who is performing service for one employer, is terminated, reassigned, or transferred, or becomes an employee of another employer because of the reorganization of special education programs pursuant to Chapter 797 of the Statutes of 1980, the employee shall be entitled to the following:

(1) The employee shall retain the seniority date of his or her employment with the district or county office from which he or she was terminated, reassigned, or transferred, in accordance with Section 44847. In the case of termination, permanent employees shall retain the rights specified in Section 44956 or, in the case of probationary employees, Sections 44957 and 44958, with the district or county office initiating the termination pursuant to Section 44955.

(2) The reassignment, transfer, or new employment caused by the reorganization of special education programs pursuant to Chapter 797 of the Statutes of 1980, shall not affect the seniority or classification of certificated employees already attained in any school district that undergoes the reorganization. These employees shall have the same status with respect to their seniority or classification, with the new employer, including time served as probationary employees. The total number of years served as a certificated

employee with the former district or county office shall be credited, year for year, for placement on the salary schedule of the new district or county office.

(b) All certificated employees providing service to individuals with exceptional needs shall be employed by a county office of education or an individual school district. Special education local plan areas or responsible local agencies resulting from local plans for the education of individuals with exceptional needs formulated in accordance with Part 30 (commencing with Section 56000) shall not be considered employers of certificated personnel for purposes of this section.

(c) Subsequent to the reassignment or transfer of any certificated employee as a result of the reorganization of special education programs, pursuant to Chapter 797 of the Statutes of 1980, that employee shall have priority, except as provided in subdivision (d), in being informed of and in filling certificated positions in special education in the areas in which the employee is certificated within the district or county office by which the certificated employee is then currently employed. This priority shall expire 24 months after the date of reassignment or transfer, and may be waived by the employee during that time period.

(d) A certificated employee who has served as a special education teacher in a district or county office and has been terminated from his or her employment by that district or county office pursuant to Section 44955, shall have first priority in being informed of and in filling vacant certificated positions in special education, for which the employee is certificated and was employed, in any other county office or school district that provides the same type of special education programs and services for the pupils previously served by the terminated employee. For a period of 39 months for permanent employees and 24 months for probationary employees from the date of termination, the employee shall have the first priority right to reappointment as provided in this section, if the employee has not attained the age of 65 years before reappointment.

SEC. 5. Section 48915.5 of the Education Code is amended to read:

48915.5. (a) In a matter involving a pupil with previously identified exceptional needs who is currently enrolled in a special education program, the governing board may order the pupil expelled pursuant to subdivision (b) or (d) of Section 48915 only if all of the following conditions are met:

(1) An individualized education program team meeting is held and conducted pursuant to Article 3 (commencing with Section 56340) of Chapter 2 of Part 30.

(2) The team determines that the misconduct was not caused by, or was not a direct manifestation of, the pupil's identified disability.

(3) The team determines that the pupil had been appropriately placed at the time the misconduct occurred.

The term “pupil with previously identified exceptional needs,” as used in this section, means a pupil who meets the requirements of Section 56026 and who, at the time the alleged misconduct occurred, was enrolled in a special education program, including enrollment in nonpublic schools pursuant to Section 56365 and state special schools.

(b) For purposes of this section, all applicable procedural safeguards prescribed by federal and state law and regulations apply to proceedings to expel pupils with previously identified exceptional needs, except that, notwithstanding Section 56321, subdivision (e) of Section 56506, or any other provision of law, parental consent is not required prior to conducting a preexpulsion educational assessment pursuant to subdivision (e), or as a condition of the final decision of the local board to expel.

(c) Each local educational agency, pursuant to the requirements of Section 56195.8, shall develop procedures and timelines governing expulsion procedures for individuals with exceptional needs.

(d) The parent of each pupil with previously identified exceptional needs has the right to participate in the individualized education program team meeting conducted pursuant to subdivision (a) preceding the commencement of expulsion proceedings, following the completion of a preexpulsion assessment pursuant to subdivision (e), through actual participation, representation, or a telephone conference call. The meeting shall be held at a time and place mutually convenient to the parent and local educational agency within the period, if any, of the pupil’s preexpulsion suspension. A telephone conference call may be substituted for the meeting. Each parent shall be notified of his or her right to participate in the meeting at least 48 hours prior to the meeting. Unless a parent has requested a postponement, the meeting may be conducted without the parent’s participation, if the notice required by this subdivision has been provided. The notice shall specify that the meeting may be held without the parent’s participation, unless the parent requests a postponement for up to three additional schooldays pursuant to this subdivision. Each parent may request that the meeting be postponed for up to three additional schooldays. If a postponement has been granted, the local educational agency may extend any suspension of a pupil for the period of postponement if the pupil continues to pose an immediate threat to the safety of himself, herself, or others and the local educational agency notifies the parent that the suspension will be continued during the postponement. However, the suspension shall not be extended beyond 10 consecutive schooldays unless agreed to by the parent, or by a court order. If a parent who has received proper notice of the meeting refuses to consent to an extension beyond 10 consecutive schooldays and chooses not to participate, the meeting may be conducted without the parent’s participation.

(e) In determining whether a pupil should be expelled, the individualized education program team shall base its decision on the

results of a preexpulsion educational assessment conducted in accordance with the guidelines of Section 104.35 of Title 34 of the Code of Federal Regulations, which shall include a review of the appropriateness of the pupil's placement at the time of the alleged misconduct, and a determination of the relationship, if any, between the pupil's behavior and his or her disability.

In addition to the preexpulsion educational assessment results, the individualized education program team shall also review and consider the pupil's health records and school discipline records. The parent, pursuant to Section 300.504 of Title 34 of the Code of Federal Regulations, is entitled to written notice of the local educational agency's intent to conduct a preexpulsion assessment. The parent shall make the pupil available for the assessment at a site designated by the local educational agency without delay. The parent's right to an independent assessment under Section 56329 applies despite the fact that the pupil has been referred for expulsion.

(f) If the individualized education program team determines that the alleged misconduct was not caused by, or a direct manifestation of, the pupil's disability, and if it is determined that the pupil was appropriately placed, the pupil shall be subject to the applicable disciplinary actions and procedures prescribed under this article.

(g) The parent of each pupil with previously identified exceptional needs has the right to a due process hearing conducted pursuant to Section 1415 of Title 20 of the United States Code if the parent disagrees with the decision of the individualized education program team made pursuant to subdivision (f), or if the parent disagrees with the decision to rely upon information obtained, or proposed to be obtained, pursuant to subdivision (e).

(h) No expulsion hearing shall be conducted for an individual with exceptional needs until all of the following have occurred:

(1) A preexpulsion assessment is conducted.

(2) The individualized education program team meets pursuant to subdivision (a).

(3) Due process hearings and appeals, if initiated pursuant to Section 1415 of Title 20 of the United States Code, are completed.

(i) Pursuant to subdivision (a) of Section 48918, the statutory times prescribed for expulsion proceedings for individuals with exceptional needs shall commence after the completion of paragraphs (1), (2), and (3) in subdivision (h).

(j) If an individual with exceptional needs is excluded from schoolbus transportation, the pupil is entitled to be provided with an alternative form of transportation at no cost to the pupil or parent.

SEC. 6. Section 56100 of the Education Code is amended to read:

56100. The State Board of Education shall do all of the following:

(a) Adopt rules and regulations necessary for the efficient administration of this part.

(b) Adopt criteria and procedures for the review and approval by the board of local plans. Local plans may be approved for up to four years.

(c) Adopt size and scope standards for determining the efficacy of local plans submitted by special education local plan areas, pursuant to subdivision (a) of Section 56195.1.

(d) Provide review, upon petition, to any district, special education local plan area, or county office that appeals a decision made by the department that affects its providing services under this part except a decision made pursuant to Chapter 5 (commencing with Section 56500).

(e) Review and approve a program evaluation plan for special education programs provided by this part in accordance with Chapter 6 (commencing with Section 56600). This plan may be approved for up to three years.

(f) Recommend to the Commission on Teacher Credentialing the adoption of standards for the certification of professional personnel for special education programs conducted pursuant to this part.

(g) Adopt regulations to provide specific procedural criteria and guidelines for the identification of pupils as individuals with exceptional needs.

(h) Adopt guidelines of reasonable pupil progress and achievement for individuals with exceptional needs. The guidelines shall be developed to aid teachers and parents in assessing an individual pupil's education program and the appropriateness of the special education services.

(i) In accordance with the requirements of federal law, adopt regulations for all educational programs for individuals with exceptional needs, including programs administered by other state or local agencies.

(j) Adopt uniform rules and regulations relating to parental due process rights in the area of special education.

(k) Adopt rules and regulations regarding the ownership and transfer of materials and equipment, including facilities, related to transfer of programs, reorganization, or restructuring of special education local plan areas.

SEC. 7. Section 56140 of the Education Code is amended to read:

56140. County offices shall do all of the following:

(a) Initiate and submit to the superintendent a countywide plan for special education which demonstrates the coordination of all local plans submitted pursuant to Section 56200 and which ensures that all individuals with exceptional needs residing within the county, including those enrolled in alternative education programs, including, but not limited to, alternative schools, charter schools, opportunity schools and classes, community day schools operated by school districts, community schools operated by county offices of education, and juvenile court schools, will have access to appropriate special education programs and related services. However, a county

office shall not be required to submit a countywide plan when all the districts within the county elect to submit a single local plan.

(b) Within 45 days, approve or disapprove any proposed local plan submitted by a district or group of districts within the county or counties. Approval shall be based on the capacity of the district or districts to ensure that special education programs and services are provided to all individuals with exceptional needs.

(1) If approved, the county office shall submit the plan with comments and recommendations to the superintendent.

(2) If disapproved, the county office shall return the plan with comments and recommendations to the district. This district may immediately appeal to the superintendent to overrule the county office's disapproval. The superintendent shall make a decision on an appeal within 30 days of receipt of the appeal.

(3) A local plan may not be implemented without approval of the plan by the county office or a decision by the superintendent to overrule the disapproval of the county office.

(c) Participate in the state onsite review of the district's implementation of an approved local plan.

(d) Join with districts in the county which elect to submit a plan or plans pursuant to subdivision (c) of Section 56195.1. Any plan may include more than one county, and districts located in more than one county. Nothing in this subdivision shall be construed to limit the authority of a county office to enter into other agreements with these districts and other districts to provide services relating to the education of individuals with exceptional needs.

SEC. 8. Section 56156.5 of the Education Code is amended to read:

56156.5. (a) Each district, special education local plan area, or county office shall be responsible for providing appropriate education to individuals with exceptional needs residing in licensed children's institutions and foster family homes located in the geographical area covered by the local plan.

(b) In multidistrict and district and county office local plan areas, local written agreements shall be developed, pursuant to subdivision (f) of Section 56195.7, to identify the public education entities that will provide the special education services.

(c) If there is no local agreement, special education services for individuals with exceptional needs residing in licensed children's institutions shall be the responsibility of the county office in the county in which the institution is located, if the county office is part of the special education local plan area, and special education services for individuals with exceptional needs residing in foster family homes shall be the responsibility of the district in which the foster family home is located. If a county office is not a part of the special education local plan area, special education services for individuals with exceptional needs residing in licensed children's institutions, pursuant to this subdivision, shall be the responsibility of

the responsible local agency or other administrative entity of the special education local plan area. This program responsibility shall continue until the time local written agreements are developed pursuant to subdivision (f) of Section 56195.7.

SEC. 9. Section 56167 of the Education Code is amended to read:

56167. (a) Individuals with exceptional needs who are placed in a public hospital, state licensed children's hospital, psychiatric hospital, proprietary hospital, or a health facility for medical purposes are the educational responsibility of the district, special education local plan area, or county office in which the hospital or facility is located, as determined in local written agreements pursuant to subdivision (e) of Section 56195.7.

(b) For the purposes of this part, "health facility" shall have the definition set forth in Sections 1250, 1250.2, and 1250.3 of the Health and Safety Code.

SEC. 10. Article 6 (commencing with Section 56170) of Chapter 2 of Part 30 of the Education Code is repealed.

SEC. 11. Section 56190 of the Education Code is amended to read:

56190. Each plan submitted under Section 56195.1 shall establish a community advisory committee. The committee shall serve only in an advisory capacity.

SEC. 12. Chapter 2.5 (commencing with Section 56195) is added to Part 30 of the Education Code, to read:

## CHAPTER 2.5. GOVERNANCE

### Article 1. Local Plans

56195. Each special education local plan area, as defined in subdivision (d) of Section 56195.1, shall administer local plans submitted pursuant to Chapter 3 (commencing with Section 56200) and shall administer the allocation of funds pursuant to Chapter 7.2 (commencing with Section 56836).

56195.1. The governing board of a district shall elect to do one of the following:

(a) If of sufficient size and scope, under standards adopted by the board, submit to the superintendent a local plan for the education of all individuals with exceptional needs residing in the district in accordance with Chapter 3 (commencing with Section 56200).

(b) In conjunction with one or more districts, submit to the superintendent a local plan for the education of individuals with exceptional needs residing in those districts in accordance with Chapter 3 (commencing with Section 56200). The plan shall include, through joint powers agreements or other contractual agreements, all the following:

(1) Provision of a governance structure and any necessary administrative support to implement the plan.

(2) Establishment of a system for determining the responsibility of participating agencies for the education of each individual with exceptional needs residing in the special education local plan area.

(3) Designation of a responsible local agency or alternative administrative entity to perform functions such as the receipt and distribution of funds, provision of administrative support, and coordination of the implementation of the plan. Any participating agency may perform any of these services required by the plan.

(c) Join with the county office, to submit to the superintendent a local plan in accordance with Chapter 3 (commencing with Section 56200) to assure access to special education and services for all individuals with exceptional needs residing in the geographic area served by the plan. The county office shall coordinate the implementation of the plan, unless otherwise specified in the plan. The plan shall include, through contractual agreements, all of the following:

(1) Establishment of a system for determining the responsibility of participating agencies for the education of each individual with exceptional needs residing in the geographical area served by the plan.

(2) Designation of the county office, of a responsible local agency, or of any other administrative entity to perform functions such as the receipt and distribution of funds, provision of administrative support, and coordination of the implementation of the plan. Any participating agency may perform any of these services required by the plan.

(d) The service area covered by the local plan developed under subdivision (a), (b), or (c) shall be known as the special education local plan area.

(e) Nothing in this section shall be construed to limit the authority of a county office and a school district or group of school districts to enter into contractual agreements for services relating to the education of individuals with exceptional needs; provided that, except for instructional personnel service units serving infants, until a special education local plan area adopts a revised local plan approved pursuant to Section 56836.03, the county office of education or school district that reports a unit for funding shall be the agency that employs the personnel who staff the unit, unless the combined unit rate and support service ratio of the nonemploying agency is equal to or lower than that of the employing agency and both agencies agree that the nonemploying agency will report the unit for funding.

56195.3. In developing a local plan under Section 56195.1, each district shall do the following:

(a) Involve special and general teachers selected by their peers and parents selected by their peers in an active role.

(b) Cooperate with the county office and other school districts in the geographic areas in planning its option under Section 56195.1 and

each fiscal year, notify the department, impacted special education local plan areas, and participating county offices of its intent to elect an alternative option from those specified in Section 56195.1, at least one year prior to the proposed effective date of the implementation of the alternative plan.

(c) Cooperate with the county office to assure that the plan is compatible with other local plans in the county and any county plan of a contiguous county.

(d) Submit to the county office for review any plan developed under subdivision (a) or (b) of Section 56195.1.

56195.5. (a) Each county office and district governing board shall have authority over the programs it directly maintains, consistent with the local plan submitted pursuant to Section 56195.1. In counties with more than one special education local plan area for which the county office provides services, relevant provisions of contracts between the county office and its employees governing wages, hours, and working conditions shall supersede like provisions contained in a plan submitted under Section 56195.1.

(b) Any county office or district governing board may provide for the education of individual pupils in special education programs maintained by other districts or counties, and may include within the special education programs pupils who reside in other districts or counties. Section 46600 shall apply to interdistrict attendance agreements for programs conducted pursuant to this part.

Article 2. Local Requirements

56195.7. In addition to the provisions required to be included in the local plan pursuant to Chapter 3 (commencing with Section 56200), each special education local plan area that submits a local plan pursuant to subdivision (b) of Section 56195.1 and each county office that submits a local plan pursuant to subdivision (c) of Section 56195.1 shall develop written agreements to be entered into by entities participating in the plan. The agreements need not be submitted to the superintendent. These agreements shall include, but not be limited to, the following:

(a) A coordinated identification, referral, and placement system pursuant to Chapter 4 (commencing with Section 56300).

(b) Procedural safeguards pursuant to Chapter 5 (commencing with Section 56500).

(c) Regionalized services to local programs, including, but not limited to, all of the following:

(1) Program specialist service pursuant to Section 56368.

(2) Personnel development, including training for staff, parents, and members of the community advisory committee pursuant to Article 3 (commencing with Section 56240).

(3) Evaluation pursuant to Chapter 6 (commencing with Section 56600).

(4) Data collection and development of management information systems.

(5) Curriculum development.

(6) Provision for ongoing review of programs conducted, and procedures utilized, under the local plan, and a mechanism for correcting any identified problem.

(d) A description of the process for coordinating services with other local public agencies that are funded to serve individuals with exceptional needs.

(e) A description of the process for coordinating and providing services to individuals with exceptional needs placed in public hospitals, proprietary hospitals, and other residential medical facilities pursuant to Article 5.5 (commencing with Section 56167) of Chapter 2.

(f) A description of the process for coordinating and providing services to individuals with exceptional needs placed in licensed children's institutions and foster family homes pursuant to Article 5 (commencing with Section 56155) of Chapter 2.

(g) A description of the process for coordinating and providing services to individuals with exceptional needs placed in juvenile court schools or county community schools pursuant to Section 56150.

(h) A budget for special education and related services that shall be maintained by the special education local plan area and be open to the public covering the entities providing programs or services within the special education local plan area. The budget language shall be presented in a form that is understandable by the general public. For each local educational agency or other entity providing a program or service, the budget, at minimum, shall display the following:

(1) Expenditures by object code and classification for the previous fiscal year and the budget by the same object code classification for the current fiscal year.

(2) The number and type of certificated instructional and support personnel, including the type of class setting to which they are assigned, if appropriate.

(3) The number of instructional aides and other qualified classified personnel.

(4) The number of enrolled individuals with exceptional needs receiving each type of service provided.

56195.8. (a) Each entity providing special education under this part shall adopt policies for the programs and services it operates, consistent with agreements adopted pursuant to subdivision (b) or (c) of Section 56195.1 or Section 56195.7. The policies need not be submitted to the superintendent.

(b) The policies shall include, but not be limited to, all of the following:

(1) Nonpublic, nonsectarian services, including those provided pursuant to Sections 56365 and 56366.

(2) Review, at a general education or special education teacher's request, of the assignment of an individual with exceptional needs to his or her class and a mandatory meeting of the individualized education program team if the review indicates a change in the pupil's placement, instruction, related services, or any combination thereof. The procedures shall indicate which personnel are responsible for the reviews and a timetable for completion of the review.

(3) Procedural safeguards pursuant to Chapter 5 (commencing with Section 56500).

(4) Resource specialists pursuant to Section 56362.

(5) Transportation, where appropriate, which describes how special education transportation is coordinated with regular home-to-school transportation. The policy shall set forth criteria for meeting the transportation needs of special education pupils. The policy shall include procedures to ensure compatibility between mobile seating devices, when used, and the securement systems required by Federal Motor Vehicle Safety Standard No. 222 (49 C.F.R. 571.222) and to ensure that schoolbus drivers are trained in the proper installation of mobile seating devices in the securement systems.

(6) Information on the number of individuals with exceptional needs who are being provided special education and related services.

(7) Caseloads pursuant to Chapter 4.45 (commencing with Section 56440) of Part 30. The policies, with respect to caseloads, shall not be developed until guidelines or proposed regulations are issued pursuant to Section 56441.7. The guidelines or proposed regulations shall be considered when developing the caseload policy. A statement of justification shall be attached if the local caseload policy exceeds state guidelines or proposed regulations.

(c) The policies may include, but are not limited to, provisions for involvement of district and county governing board members in any due process hearing procedure activities conducted pursuant to, and consistent with, state and federal law.

56195.9. The plan for special education shall be developed and updated cooperatively by a committee of representatives of special and regular teachers and administrators selected by the groups they represent and with participation by parent members of the community advisory committee, or parents selected by the community advisory committee, to ensure adequate and effective participation and communication.

SEC. 13. Section 56200 of the Education Code is amended to read:

56200. Each local plan submitted to the superintendent under this part shall contain all the following:

(a) Compliance assurances, including general compliance with the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. Sec. 794), and this part.

(b) A description of services to be provided by each district and county office. This description shall demonstrate that all individuals with exceptional needs shall have access to services and instruction appropriate to meet their needs as specified in their individualized education programs.

(c) (1) A description of the governance and administration of the plan, including the role of county office and district governing board members.

(2) Multidistrict plans, submitted pursuant to subdivision (b) or (c) of Section 56170, shall specify the responsibilities of each participating county office and district governing board in the policymaking process, the responsibilities of the superintendents of each participating district and county in the implementation of the plan, and the responsibilities of district and county administrators of special education in coordinating the administration of the local plan.

(d) Copies of joint powers agreements or contractual agreements, as appropriate, for districts and counties that elect to enter into those agreements pursuant to subdivision (b) or (c) of Section 56170.

(e) An annual budget plan to allocate instructional personnel service units, support services, and transportation services directly to entities operating those services and to allocate regionalized services funds to the county office, responsible local agency, or other alternative administrative structure. The annual budget plan shall be adopted at a public hearing held by the district, special education local plan area, or county office, as appropriate. Notice of this hearing shall be posted in each school in the local plan area at least 15 days prior to the hearing. The annual budget plan may be revised during the fiscal year, and these revisions may be submitted to the superintendent as amendments to the allocations set forth in the plan. However, the revisions shall, prior to submission to the superintendent, be approved according to the policymaking process, established pursuant to paragraph (2) of subdivision (c).

(f) Verification that the plan has been reviewed by the community advisory committee and that the committee had at least 30 days to conduct this review prior to submission of the plan to the superintendent.

(g) A description of the identification, referral, assessment, instructional planning, implementation, and review in compliance with Chapter 4 (commencing with Section 56300).

(h) A description of the process being utilized to meet the requirements of Section 56303.

(i) A description of the process being utilized to meet the requirements of the California Early Intervention Services Act, Title 14 (commencing with Section 95000) of the Government Code.

SEC. 14. Section 56202 is added to the Education Code, to read:

56202. This article shall only apply to districts, county offices, and special education local plan areas that have not had a revised local plan approved pursuant to Section 56836.03.

This article shall become inoperative on July 1, 2003, and, as of January 1, 2004, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2004, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 15. Article 1.1 (commencing with Section 56205) is added to Chapter 3 of Part 30 of the Education Code, to read:

## Article 1.1. State Requirements

56205. Each special education local plan area shall submit a local plan to the superintendent under this part. The local plan shall contain all the following:

(a) Compliance assurances, including general compliance with the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. Sec. 794), the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.), federal regulations relating thereto, and this part.

(b) (1) A description of the governance and administration of the plan, including identification of the governing body of a multidistrict plan or the individual responsible for administration in a single district plan, and a description of the elected officials to whom the governing body or individual is responsible.

(2) A description of the regionalized operations and services listed in Section 56836.23 and the direct instructional support provided by program specialists in accordance with Section 56368 to be provided through the plan.

(3) Multidistrict plans, submitted pursuant to subdivision (b) or (c) of Section 56195.1, shall specify the responsibilities of each participating county office and district governing board in the policymaking process, the responsibilities of the superintendents of each participating district and county in the implementation of the plan, and the responsibilities of district and county administrators of special education in coordinating the administration of the local plan.

(4) Multidistrict plans, submitted pursuant to subdivision (b) or (c) of Section 56195.1, shall identify the respective roles of the administrative unit and the administrator of the special education local plan area and the individual local education agencies within the special education local plan area in relation to the following:

(A) The hiring, supervision, evaluation, and discipline of the administrator of the special education local plan area and staff employed by the administrative unit in support of the local plan.

(B) The allocation from the state of federal and state funds to the special education local plan area or to local education agencies within the special education local plan area.

(C) The operation of special education programs.

(D) Monitoring the appropriate use of federal, state, and local funds allocated for special education programs.

(E) The preparation of program and fiscal reports required of the special education local plan area by the state.

(5) The description of the governance and administration of the plan, and the policymaking process, shall be consistent with subdivision (f) of Section 56001, subdivision (a) of Section 56195.3, and Section 56195.9 and shall reflect a schedule of regular consultations regarding policy and budget development with representatives of special and regular teachers and administrators selected by the groups they represent and parent members of the community advisory committee established pursuant to Article 7 (commencing with Section 56190) of Chapter 2.

(c) A description of the method by which members of the public, including parents or guardians of individuals with exceptional needs who are receiving services under the plan, may address questions or concerns to the governing body or individual identified in paragraph (1) of subdivision (b).

(d) A description of an alternative resolution process, including mediation and final and binding arbitration to resolve disputes over the distribution of funding, the responsibility for service provision, and other activities specified within the plan. Any arbitration shall be conducted by the department.

(e) Copies of joint powers agreements or contractual agreements, as appropriate, for districts and counties that elect to enter into those agreements pursuant to subdivision (b) or (c) of Section 56195.1.

(f) An annual budget allocation plan that shall be adopted at a public hearing held by the special education local plan area. Notice of this hearing shall be posted in each school in the local plan area at least 15 days prior to the hearing. The annual budget allocation plan may be revised during any fiscal year, and these revisions may be submitted to the superintendent as amendments to the allocations set forth in the local plan. However, the revisions shall, prior to submission to the superintendent, be approved according to the policymaking process established pursuant to paragraph (3) of subdivision (b) and consistent with subdivision (f) of Section 56001 and Section 56222. The annual budget plan shall separately identify the allocations for all of the following:

(1) Funds received in accordance with Chapter 7.2 (commencing with Section 56836).

(2) Administrative costs of the plan.

(3) Special education services to pupils with severe disabilities and low incidence disabilities.

(4) Special education services to pupils with nonsevere disabilities.

(5) Supplemental aids and services to meet the individual needs of pupils placed in regular education classrooms and environments.

(6) Regionalized operations and services, and direct instructional support by program specialists in accordance with Article 6 (commencing with Section 56836.23) of Chapter 7.2.

(7) The use of property taxes allocated to the special education local plan area pursuant to Section 2572.

(g) An annual service plan shall be adopted at a public hearing held by the special education local plan area. Notice of this hearing shall be posted in each school in the special education local plan area at least 15 days prior to the hearing. The annual service plan may be revised during any fiscal year, and these revisions may be submitted to the superintendent as amendments to the plan. However, the revisions shall, prior to submission to the superintendent, be approved according to the policymaking process established pursuant to paragraph (3) of subdivision (b) and consistent with subdivision (f) of Section 56001 and Section 56222. The annual service plan shall include a description of services to be provided by each district and county office, including the nature of the services and the location at which the services will be provided, including alternative schools, charter schools, opportunity schools and classes, community day schools operated by school districts, community schools operated by county offices of education, and juvenile court schools regardless of whether the district or county office of education is participating in the local plan. This description shall demonstrate that all individuals with exceptional needs shall have access to services and instruction appropriate to meet their needs as specified in their individualized education programs.

(h) Verification that the plan has been reviewed by the community advisory committee and that the committee had at least 30 days to conduct this review prior to submission of the plan to the superintendent.

(i) A description of the identification, referral, assessment, instructional planning, implementation, and review in compliance with Chapter 4 (commencing with Section 56300).

(j) A description of the process being utilized to meet the requirements of Section 56303.

(k) A description of the process being utilized to meet the requirements of the California Early Intervention Services Act, Title 14 (commencing with Section 95000) of the Government Code.

(*l*) The local plan, budget allocation plan, and annual service plan shall be written in language that is understandable to the general public.

56206. As a part of the local plan submitted pursuant to Section 56205, each special education local plan area shall describe how specialized equipment and services will be distributed within the local plan area in a manner that minimizes the necessity to serve pupils in isolated sites and maximizes the opportunities to serve pupils in the least restrictive environments.

56207. (a) No educational programs and services already in operation in school districts or a county office of education pursuant to Part 30 (commencing with Section 56000) shall be transferred to another school district or a county office of education or from a

county office of education to a school district unless the special education local plan area has developed a plan for the transfer which addresses, at a minimum, all of the following:

(1) Pupil needs.

(2) The availability of the full continuum of services to affected pupils.

(3) The functional continuation of the current individualized education programs of all affected pupils.

(4) The provision of services in the least restrictive environment from which affected pupils can benefit.

(5) The maintenance of all appropriate support services.

(6) The assurance that there will be compliance with all federal and state laws and regulations and special education local plan area policies.

(7) The means through which parents and staff were represented in the planning process.

(b) The date on which the transfer will take effect may be no earlier than the first day of the second fiscal year beginning after the date on which the sending or receiving agency has informed the other agency and the governing body or individual identified in paragraph (1) of subdivision (b) of Section 56205, unless the governing body or individual identified in paragraph (1) of subdivision (b) of Section 56205 unanimously approves the transfer taking effect on the first day of the first fiscal year following that date.

(c) If either the sending or receiving agency disagree with the proposed transfer, the matter shall be resolved by the alternative resolution process established pursuant to subdivision (d) of Section 56205.

56208. This article shall apply to special education local plan areas that are submitting a revised local plan for approval pursuant to Section 56836.03 or that have an approved revised local plan pursuant to Section 56836.03.

SEC. 16. Section 56210 of the Education Code is amended to read:

56210. (a) It is the intent of the Legislature in enacting this article to ensure that individuals with exceptional needs residing in special education local plan areas with small or sparse populations have equitable access to the programs and services they may require. It is further the intent of the Legislature to provide a guaranteed minimum level of authorized instructional personnel service units to special education local plan areas with small or sparse populations and the means through which these special education local plan areas may achieve planned orderly growth and maintenance of services through the local planning process. It is also the intent of the Legislature to relieve special education local plan areas with small or sparse populations from the burdensome dependency upon the annual waiver authority of Sections 56728.6, 56728.8, and 56761 so that individuals with exceptional needs residing in those areas may have equitable access to required programs and services.

(b) It is the further intent of the Legislature in enacting this article that special education local plan areas with small or sparse populations be provided with supplemental funding to facilitate their ability to perform the regionalized service functions listed in Section 56780 and provide the direct instructional support of program specialists in accordance with Section 56368.

(c) This section shall become inoperative on July 1, 1998, and, as of January 1, 1999, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 1999, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 17. Section 56211 of the Education Code is amended to read:

56211. (a) A special education local plan area submitting a local plan, pursuant to subdivision (c) of Section 56195.1, which includes all of the school districts located in the county submitting the plan, except those participating in a countywide special education local plan area located in an adjacent county, and which meets the criteria for special education local plan areas with small or sparse populations set forth in Section 56212, is eligible to request that designation in its local plan application and may request exemption for the three-year period covered by its approved plan from compliance with one or more of the standards, ratios, and criteria specified in subdivision (b). In requesting the designation in its local plan application, the special education local plan area shall include a maintenance of service section, pursuant to Section 56213, in which it may request authorization to operate pursuant to the provisions of this article for the three-year period covered by its approved local plan. Each request shall specify which of the standards, ratios, proportions, and criteria for which any exemption is requested, and why compliance with the standards, ratios, proportions, and criteria would prevent the provision of a free appropriate public education or would create undue hardship.

(b) An eligible special education local plan area submitting a local plan application pursuant to this section may request exemption from the standards, ratios, and criteria set forth in Sections 56728.6, 56728.8 and 56760 pertaining to the authorization, recapture, retention, and operation of instructional personnel service units.

(c) This section shall become inoperative on July 1, 1998, and, as of January 1, 1999, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 1999, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 18. Section 56211 is added to the Education Code, to read:

56211. A special education local plan area submitting a local plan, pursuant to subdivision (c) of Section 56195.1, which includes all of the school districts located in the county submitting the plan, except those participating in a countywide special education local plan area located in an adjacent county, and which meets the criteria for special education local plan areas with small populations set forth in

Section 56212, is eligible to request that designation in its local plan application.

This section shall become operative on July 1, 1998.

SEC. 19. Section 56212 of the Education Code is amended to read:

56212. An eligible special education local plan area, which submits a local plan under the provisions of Section 56211, may request designation as a small or sparsely populated special education local plan area in one of the following categories:

(a) A necessary small special education local plan area in which the total enrollment in kindergarten and grades 1 to 12, inclusive, is less than 15,000, and which includes all of the school districts located in the county or counties participating in the local plan.

(b) A sparsely populated special education local plan area in which the total enrollment in kindergarten and grades 1 to 12, inclusive, is less than 25,000, in which the combined pupil density ratio is not more than 20 pupils in those grades per square mile, and which includes all of the school districts located in the county submitting the plan except those that are participants in a countywide special education local plan area located in an adjacent county.

(c) A special education local plan area with a sparsely populated county in which a special education local plan area includes all of the districts in two or more adjacent counties and in which at least one of the counties would have met the criteria set forth in subdivision (a) or (b) of this section if the districts and the county office of education had elected to submit a single county plan.

(d) This section shall become inoperative on July 1, 1998, and, as of January 1, 1999, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 1999, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 20. Section 56212 is added to the Education Code, to read:

56212. An eligible special education local plan area, which submits a local plan under the provisions of Section 56211, may request designation as a necessary small special education local plan area if its total reported units of average daily attendance in kindergarten and grades 1 to 12, inclusive, is less than 15,000, and if it includes all of the school districts located in the county or counties participating in the local plan.

This section shall become operative on July 1, 1998.

SEC. 21. Section 56213 of the Education Code is amended to read:

56213. (a) Each eligible special education local plan area that submits a local plan pursuant to Section 56211 and that elects exemptions from the standards, ratios, proportions, and criteria set forth in Sections 56728.6, 56728.8, and 56760 pertaining to the authorization, recapture, retention, and operation of instructional personnel service units shall, for the duration of its local plan, retain, as minimum annual authorization, the number of authorized instructional personnel service units, and portions thereof, that it

reported as operated at the second principal apportionment of the fiscal year immediately preceding the initial year of implementation of the local plan submitted pursuant to this article.

(b) In addition to the contents required to be included in the local plan pursuant to Section 56200, a local plan application submitted pursuant to this article shall include a maintenance of service section in which the eligible special education local plan area shall project the type and total number of additional instructional personnel service units, and portions thereof, it will require for each year of the duration of the local plan, the locations in which instructional personnel service units will be utilized, their estimated caseloads, and a description of the services to be provided.

(c) This section shall become inoperative on July 1, 1998, and, as of January 1, 1999, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 1999, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 22. Section 56214 of the Education Code is amended to read:

56214. Each small or sparsely populated special education local plan area which anticipates that its service needs will require instructional personnel service units, or portions thereof, in excess of those authorized in its approved local plan may submit, prior to March 1 of any year, an amendment to the maintenance of service section of its local plan in which it may request an increase in its total number of authorized instructional personnel service units beginning in the following year. The amendment shall project the type and total number of additional instructional personnel service units, and portions thereof, the small or sparsely populated special education local plan area will require for each remaining year of the duration of the local plan, the locations in which additional instructional personnel service units will be utilized, their estimated caseloads, and a description of the services to be provided.

This section shall become inoperative on July 1, 1998, and, as of January 1, 1999, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 1999, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 23. Section 56214.5 of the Education Code is amended to read:

56214.5. A special education local plan area which ceases meeting the criteria set forth in Sections 56211 and 56212 during any year in which the local plan area is implementing an approved local plan pursuant to this article shall retain the exemptions authorized pursuant to Section 56213 and the then current level of authorized instructional personnel service units for the following year.

This section shall become inoperative on July 1, 1998, and, as of January 1, 1999, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 1999, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 24. Section 56217 of the Education Code is amended to read:

56217. Plans and amendments submitted pursuant to this article shall be approved by the State Board of Education prior to the implementation of those plans and amendments.

This section shall become inoperative on July 1, 1998, and, as of January 1, 1999, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 1999, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 25. Section 56218 of the Education Code is amended to read:

56218. Instructional personnel service units authorized pursuant to this article shall not increase the statewide total number of instructional personnel service units for the purposes of state apportionments unless an appropriation specifically for an increase in the number of instructional personnel service units is made in the annual Budget Act or other legislation. If an appropriation is made, instructional personnel service units authorized pursuant to this article shall be included in the increased number of units and shall be funded only by the appropriation and no other funds may be apportioned for them.

This section shall become inoperative on July 1, 1998, and, as of January 1, 1999, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 1999, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 26. Article 2 (commencing with Section 56220) of Chapter 3 of Part 30 of the Education Code is repealed.

SEC. 27. Section 56325 of the Education Code is amended to read:

56325. (a) Whenever a pupil transfers into a school district from a school district not operating programs under the same local plan in which he or she was last enrolled in a special education program, the administrator of a local program under this part shall ensure that the pupil is immediately provided an interim placement for a period not to exceed 30 days. The interim placement must be in conformity with an individualized education program, unless the parent or guardian agrees otherwise. The individualized education program implemented during the interim placement may be either the pupil's existing individualized education program, implemented to the extent possible within existing resources, which may be implemented without complying with subdivision (a) of Section 56321, or a new individualized education program developed pursuant to Section 56321.

(b) Before the expiration of the 30-day period, the interim placement shall be reviewed by the individualized education program team and a final recommendation shall be made by the team in accordance with the requirements of this chapter. The team may utilize information, records, and reports from the school district or county program from which the pupil transferred.

(c) Whenever a pupil described in subdivision (a) is placed and residing in a residential nonpublic, nonsectarian school, the special education local plan area making that placement shall continue to be

responsible for the funding of the placement for the remainder of the school year.

SEC. 28. Section 56342 of the Education Code is amended to read:

56342. The individualized education program team shall review the assessment results, determine eligibility, determine the content of the individualized education program, consider local transportation policies and criteria developed pursuant to paragraph (5) of subdivision (b) of Section 56195.8, and make program placement recommendations.

Prior to recommending a new placement in a nonpublic, nonsectarian school, the individualized education program team shall submit the proposed recommendation to the local governing board of the district and special education local plan area for review and recommendation regarding the cost of the placement.

The local governing board shall complete its review and make its recommendations, if any, at the next regular meeting of the board. A parent or representative shall have the right to appear before the board and submit written and oral evidence regarding the need for nonpublic school placement for his or her child. Any recommendations of the board shall be considered at an individualized education program team meeting, to be held within five days of the board's review.

Notwithstanding Section 56344, the time limit for the development of an individualized education program shall be waived for a period not to exceed 15 additional days to permit the local governing board to meet its review and recommendation requirements.

SEC. 29. Section 56360 of the Education Code is amended to read:

56360. Each special education local plan area shall ensure that a continuum of program options is available to meet the needs of individuals with exceptional needs for special education and related services, as required by the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) and federal regulations relating thereto.

SEC. 30. Section 56361 of the Education Code is amended to read:

56361. The continuum of program options shall include, but not necessarily be limited to, all of the following or any combination of the following:

(a) Regular education programs consistent with subparagraph (B) of paragraph (5) of Section 1412 and clause (iv) of subparagraph (C) of paragraph (1) of subsection (a) of Section 1414 of Title 20 of the United States Code and implementing regulations.

(b) A resource specialist program pursuant to Section 56362.

(c) Designated instruction and services pursuant to Section 56363.

(d) Special classes and centers pursuant to Section 56364.

(e) Nonpublic, nonsectarian school services pursuant to Section 56365.

(f) State special schools pursuant to Section 56367.

(g) Instruction in settings other than classrooms where specially designed instruction may occur.

(h) Itinerant instruction in classrooms, resource rooms, and settings other than classrooms where specially designed instruction may occur to the extent required by federal law or regulation.

(i) Instruction using telecommunication, and instruction in the home, in hospitals, and in other institutions to the extent required by federal law or regulation.

SEC. 31. Section 56362 of the Education Code is amended to read:

56362. (a) The resource specialist program shall provide, but not be limited to, all of the following:

(1) Provision for a resource specialist or specialists who shall provide instruction and services for those pupils whose needs have been identified in an individualized education program developed by the individualized education program team and who are assigned to regular classroom teachers for a majority of a schoolday.

(2) Provision of information and assistance to individuals with exceptional needs and their parents.

(3) Provision of consultation, resource information, and material regarding individuals with exceptional needs to their parents and to regular staff members.

(4) Coordination of special education services with the regular school programs for each individual with exceptional needs enrolled in the resource specialist program.

(5) Monitoring of pupil progress on a regular basis, participation in the review and revision of individualized education programs, as appropriate, and referral of pupils who do not demonstrate appropriate progress to the individualized education program team.

(6) Emphasis at the secondary school level on academic achievement, career and vocational development, and preparation for adult life.

(b) The resource specialist program shall be under the direction of a resource specialist who is a credentialed special education teacher, or who has a clinical services credential with a special class authorization, who has had three or more years of teaching experience, including both regular and special education teaching experience, as defined by rules and regulations of the Commission on Teacher Credentialing and who has demonstrated the competencies for a resource specialist, as established by the Commission on Teacher Credentialing.

(c) Caseloads for resource specialists shall be stated in the local policies developed pursuant to Section 56195.8 and in accordance with regulations established by the board. No resource specialist shall have a caseload which exceeds 28 pupils.

(d) Resource specialists shall not simultaneously be assigned to serve as resource specialists and to teach regular classes.

(e) Resource specialists shall not enroll a pupil for a majority of a schoolday without prior approval by the superintendent.

(f) At least 80 percent of the resource specialists within a local plan shall be provided with an instructional aide.

SEC. 32. Section 56364 of the Education Code is amended to read:

56364. (a) Special classes and centers that enroll pupils with similar and more intensive educational needs shall be available. The classes and centers shall enroll the pupils when the nature or severity of the disability precludes their participation in the regular school program for a majority of a schoolday. Special classes and centers and other removal of individuals with exceptional needs from the regular education environment shall occur only when education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily due to the nature or severity of the exceptional need.

In providing or arranging for the provision of activities, each public agency shall ensure that each individual with exceptional needs participates in those activities with nondisabled pupils to the maximum extent appropriate to the needs of the individual with exceptional needs, including nonacademic and extracurricular services and activities. Special classes and centers shall meet standards adopted by the board.

(b) This section shall not apply to any special education local plan area that has a revised local plan approved pursuant to Section 56836.03. This section shall apply to special education local plan areas that have not had a revised local plan approved pursuant to that section.

(c) This section shall become inoperative on July 1, 2003, and, as of January 1, 2004, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2004, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 33. Section 56364.5 is added to the Education Code, to read:

56364.5. (a) Special classes and centers that enroll pupils with similar and more intensive educational needs shall be available. The classes and centers shall enroll pupils when the nature or severity of the disability precludes their participation in the regular school program for all or significant portions of a schoolday. Special classes and centers and other removal of individuals with exceptional needs from the regular education environment shall occur only when education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily due to the nature or severity of the exceptional needs.

(b) In providing or arranging for the provision of activities, each public agency shall ensure that each individual with exceptional needs participates in those activities with nondisabled pupils to the maximum extent appropriate to the needs of the individual with exceptional needs, including nonacademic and extracurricular services and activities. Special classes and centers shall meet standards adopted by the board.

(c) This section shall only apply to special education local plan areas that have had a revised local plan approved pursuant to Section 56836.03.

SEC. 34. Section 56366.2 of the Education Code is amended to read:

56366.2. (a) A district, special education local plan area, county office, nonpublic, nonsectarian school, or nonpublic, nonsectarian agency may petition the superintendent to waive one or more of the requirements under Sections 56365, 56366, 56366.3, 56366.6, and 56366.7. The petition shall state the reasons for the waiver request, and shall include the following:

(1) Sufficient documentation to demonstrate that the waiver is necessary to the content and implementation of a specific pupil's individualized education program and the pupil's current placement.

(2) The period of time that the waiver will be effective during any one school year.

(3) Documentation and assurance that the waiver does not abrogate any right provided individuals with exceptional needs and their parents or guardians under state or federal law, and does not hinder the compliance of a district, special education local plan area, or county office with the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. Sec. 794), the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.), and federal regulations relating thereto.

(b) No waiver shall be granted for reimbursement of those costs prohibited under Article 4 (commencing with Section 56836.20) of Chapter 7.2 of Part 30 or for the certification requirements pursuant to Section 56366.1 unless approved by the board pursuant to Section 56101.

(c) In submitting the annual report on waivers granted under Section 56101 and this section to the State Board of Education, the superintendent shall specify information related to the provision of special education and related services to individuals with exceptional needs through contracts with nonpublic, nonsectarian schools and agencies located in the state, nonpublic, nonsectarian school and agency placements in facilities located out of state, and the specific section waived pursuant to this section.

SEC. 35. Section 56366.9 is added to the Education Code, to read:

56366.9. A licensed children's institution at which individuals with exceptional needs reside shall not require as a condition of residential placement that it provide the appropriate educational programs to those individuals through a nonpublic, nonsectarian school or agency owned or operated by a licensed children's institution. Those services may only be provided if the special education local plan area determines that alternative educational programs are not available.

SEC. 36. Section 56370 of the Education Code is amended to read:

56370. A transfer of special education programs from a school district to the county superintendent of schools or to other school districts, or from the county superintendent of schools to school districts, shall not be approved by the Superintendent of Public Instruction if the transfer would result in diminishing the level of services or the opportunity of the affected pupils to interact with the general school population, as required in the individualized education programs of the affected pupils.

This section shall not apply to any special education local plan area that has a revised local plan approved pursuant to Section 56836.03. This section shall apply to special education local plan areas that have not had a revised local plan approved pursuant to this section.

This section shall become inoperative on July 1, 2003, and, as of January 1, 2004, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2004, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 37. Chapter 4.3 (commencing with Section 56400) of Part 30, of the Education Code is repealed.

SEC. 38. Section 56425 of the Education Code is amended to read:

56425. As a condition of receiving state aid pursuant to this part, each district, special education local plan area, or county office that operated early education programs for individuals with exceptional needs younger than three years of age, as defined in Section 56026, and that received state or federal aid for special education for those programs in the 1980–81 fiscal year, shall continue to operate early education programs in the 1981–82 fiscal year and each fiscal year thereafter.

If a district or county office offered those programs in the 1980-81 fiscal year but in a subsequent year transfers the programs to another district or county office in the special education local plan area, the district or county office shall be exempt from the provisions of this section in any year when the programs are offered by the district or county office to which they were transferred.

A district, special education local plan area, or county office that is required to offer a program pursuant to this section shall be eligible for funding pursuant to Chapter 7 (commencing with Section 56700) of Part 30.

This section shall become inoperative on July 1, 1998, and, as of January 1, 1999, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 1999, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 39. Section 56425 is added to the Education Code, to read:

56425. As a condition of receiving state aid pursuant to this part, each district, special education local plan area, or county office that operated early education programs for individuals with exceptional needs younger than three years of age, as defined in Section 56026, and that received state or federal aid for special education for those

programs in the 1980–81 fiscal year, shall continue to operate early education programs in the 1981–82 fiscal year and each fiscal year thereafter.

If a district or county office offered those programs in the 1980-81 fiscal year but in a subsequent year transfers the programs to another district or county office in the special education local plan area, the district or county office shall be exempt from the provisions of this section in any year when the programs are offered by the district or county office to which they were transferred.

A district, special education local plan area, or county office that is required to offer a program pursuant to this section shall be eligible for funding pursuant to Section 56432.

This section shall become operative on July 1, 1998.

SEC. 40. Section 56425.5 of the Education Code is amended to read:

56425.5. The Legislature hereby finds and declares that early education programs for infants identified as individuals with exceptional needs that provide educational services with active parent involvement can significantly reduce the potential impact of many disabling conditions, and positively influence later development when the child reaches schoolage.

Early education programs funded pursuant to Sections 56427, 56428, and 56728.8 shall provide a continuum of program options provided by a transdisciplinary team to meet the multiple and varied needs of infants and their families. Recognizing the parent as the infant's primary teacher, it is the Legislature's intent that early education programs shall include opportunities for the family to receive home visits and to participate in family involvement activities pursuant to Sections 56426.1 and 56426.4. It is the intent of the Legislature that, as an infant grows older, program emphasis would shift from home-based services to a combination of home-based and group services.

It is further the intent of the Legislature that services rendered by state and local agencies serving infants with exceptional needs and their families be coordinated and maximized.

This section shall become inoperative on July 1, 1998, and, as of January 1, 1999, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 1999, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 41. Section 56425.5 is added to the Education Code, to read:

56425.5. The Legislature hereby finds and declares that early education programs for infants identified as individuals with exceptional needs that provide educational services with active parent involvement, can significantly reduce the potential impact of many disabling conditions, and positively influence later development when the child reaches schoolage.

Early education programs funded pursuant to Sections 56427, 56428, and 56432 shall provide a continuum of program options

provided by a transdisciplinary team to meet the multiple and varied needs of infants and their families. Recognizing the parent as the infant's primary teacher, it is the Legislature's intent that early education programs shall include opportunities for the family to receive home visits and to participate in family involvement activities pursuant to Sections 56426.1 and 56426.4. It is the intent of the Legislature that, as an infant grows older, program emphasis would shift from home-based services to a combination of home-based and group services.

It is further the intent of the Legislature that services rendered by state and local agencies serving infants with exceptional needs and their families be coordinated and maximized.

This section shall become operative on July 1, 1998.

SEC. 42. Section 56426 of the Education Code is amended to read:

56426. An early education program shall include services specially designed to meet the unique needs of infants, from birth to three years of age, and their families. The primary purpose of an early education program is to enhance development of the infant. To meet this purpose, the program shall focus upon the infant and his or her family, and shall include home visits, group services, and family involvement activities. Early education programs funded pursuant to Sections 56427, 56428, and 56728.8 shall include, as program options, home-based services pursuant to Section 56426.1, and home-based and group services pursuant to Section 56426.2 and shall be provided in accordance with the Individuals with Disabilities Education Act (20 U.S.C. Secs. 1471 to 1485, incl.), and the California Early Intervention Services Act, Title 14 (commencing with Section 95000) of the Government Code.

This section shall become inoperative on July 1, 1998, and, as of January 1, 1999, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 1999, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 43. Section 56426 is added to the Education Code, to read:

56426. An early education program shall include services specially designed to meet the unique needs of infants, from birth to three years of age, and their families. The primary purpose of an early education program is to enhance development of the infant. To meet this purpose, the program shall focus upon the infant and his or her family, and shall include home visits, group services, and family involvement activities. Early education programs funded pursuant to Sections 56427, 56428, and 56432 shall include, as program options, home-based services pursuant to Section 56426.1, and home-based and group services pursuant to Section 56426.2 and shall be provided in accordance with the Individuals with Disabilities Education Act (20 U.S.C. Secs. 1471 to 1485, incl.), and the California Early Intervention Services Act, Title 14 (commencing with Section 95000) of the Government Code.

This section shall become operative on July 1, 1998.

SEC. 44. Section 56426.1 of the Education Code is amended to read:

56426.1. (a) Home-based early education services funded pursuant to Sections 56427, 56428, and 56728.8 shall include, but not be limited to, all of the following:

(1) Observing the infant's behavior and development in his or her natural environment.

(2) Presenting activities that are developmentally appropriate for the infant and are specially designed, based on the infant's exceptional needs, to enhance the infant's development. Those activities shall be developed to conform with the infant's individualized family service plan and to ensure that they do not conflict with his or her medical needs.

(3) Modeling and demonstrating developmentally appropriate activities for the infant to the parents, siblings, and other caregivers, as designated by the parent.

(4) Interacting with the family members and other caregivers, as designated by the parent, to enhance and reinforce their development of skills necessary to promote the infant's development.

(5) Discussing parental concerns related to the infant and the family, and supporting parents in coping with their infant's needs.

(6) Assisting parents to solve problems, to seek other services in their community, and to coordinate the services provided by various agencies.

(b) The frequency of home-based services shall be once or twice a week, depending on the needs of the infant and the family.

(c) This section shall become inoperative on July 1, 1998, and, as of January 1, 1999, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 1999, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 45. Section 56426.1 is added to the Education Code, to read:

56426.1. (a) Home-based early education services funded pursuant to Sections 56427, 56428, and 56432 shall include, but not be limited to, all of the following:

(1) Observing the infant's behavior and development in his or her natural environment.

(2) Presenting activities that are developmentally appropriate for the infant and are specially designed, based on the infant's exceptional needs, to enhance the infant's development. Those activities shall be developed to conform with the infant's individualized family service plan and to ensure that they do not conflict with his or her medical needs.

(3) Modeling and demonstrating developmentally appropriate activities for the infant to the parents, siblings, and other caregivers, as designated by the parent.

(4) Interacting with the family members and other caregivers, as designated by the parent, to enhance and reinforce their development of skills necessary to promote the infant's development.

(5) Discussing parental concerns related to the infant and the family, and supporting parents in coping with their infant's needs.

(6) Assisting parents to solve problems, to seek other services in their community, and to coordinate the services provided by various agencies.

(b) The frequency of home-based services shall be once or twice a week, depending on the needs of the infant and the family.

(c) This section shall become operative on July 1, 1998.

SEC. 46. Section 56426.2 of the Education Code is amended to read:

56426.2. (a) Early education services funded pursuant to Sections 56427, 56428, and 56728.8 shall be provided through both home visits and group settings with other infants, with or without the parent. Home-based and group services shall include, but not be limited to, all of the following:

(1) All services identified in subdivision (a) of Section 56426.1.

(2) Group and individual activities that are developmentally appropriate and specially designed, based on the infant's exceptional needs, to enhance the infant's development. Those activities shall be developed to conform with the infant's individualized family service plan and to ensure that they do not conflict with his or her medical needs.

(3) Opportunities for infants to socialize and participate in play and exploration activities.

(4) Transdisciplinary services by therapists, psychologists, and other specialists as appropriate.

(5) Access to various developmentally appropriate equipment and specialized materials.

(6) Opportunities for family involvement activities, including parent education and parent support groups.

(b) Services provided in a center under this chapter shall not include child care or respite care.

(c) The frequency of group services shall not exceed three hours a day for up to, and including, three days a week, and shall be determined on the basis of the needs of the infant and the family.

(d) The frequency of home visits provided in conjunction with group services shall range from one to eight visits per month, depending on the needs of the infant and the family.

(e) Group services shall be provided on a ratio of no more than four infants to one adult.

(f) Parent participation in group services shall be encouraged.

(g) This section shall become inoperative on July 1, 1998, and, as of January 1, 1999, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 1999, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 47. Section 56426.2 is added to the Education Code, to read:

56426.2. (a) Early education services funded pursuant to Sections 56427, 56428, and 56432 shall be provided through both home

visits and group settings with other infants, with or without the parent. Home-based and group services shall include, but not be limited to, all of the following:

(1) All services identified in subdivision (a) of Section 56426.1.

(2) Group and individual activities that are developmentally appropriate and specially designed, based on the infant's exceptional needs, to enhance the infant's development. Those activities shall be developed to conform with the infant's individualized family service plan and to ensure that they do not conflict with his or her medical needs.

(3) Opportunities for infants to socialize and participate in play and exploration activities.

(4) Transdisciplinary services by therapists, psychologists, and other specialists as appropriate.

(5) Access to various developmentally appropriate equipment and specialized materials.

(6) Opportunities for family involvement activities, including parent education and parent support groups.

(b) Services provided in a center under this chapter shall not include child care or respite care.

(c) The frequency of group services shall not exceed three hours a day for up to, and including, three days a week, and shall be determined on the basis of the needs of the infant and the family.

(d) The frequency of home visits provided in conjunction with group services shall range from one to eight visits per month, depending on the needs of the infant and the family.

(e) Group services shall be provided on a ratio of no more than four infants to one adult.

(f) Parent participation in group services shall be encouraged.

(g) This section shall become operative on July 1, 1998.

SEC. 48. Section 56426.25 of the Education Code is amended to read:

56426.25. The maximum service levels set forth in Sections 56426.1 and 56426.2 apply only for purposes of the allocation of funds for early education programs pursuant to Sections 56427, 56428, and 56728.8, and may be exceeded by a district, special education local plan area, or county office, in accordance with the infants' individualized family service plan, provided that no change in the level of entitlement to state funding under this part thereby results.

This section shall become inoperative on July 1, 1998, and, as of January 1, 1999, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 1999, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 49. Section 56426.25 is added to the Education Code, to read:

56426.25. The maximum service levels set forth in Sections 56426.1 and 56426.2 apply only for purposes of the allocation of funds for early education programs pursuant to Sections 56427, 56428, and 56432, and may be exceeded by a district, special education local plan

area, or county office, in accordance with the infants' individualized family service plan, provided that no change in the level of entitlement to state funding under this part thereby results.

This section shall become operative on July 1, 1998.

SEC. 50. Section 56426.4 of the Education Code is amended to read:

56426.4. (a) Family involvement activities funded pursuant to Sections 56427, 56428, and 56728.8 shall support family members in meeting the practical and emotional issues and needs of raising their infant. These activities may include, but are not limited to, the following:

(1) Educational programs that present information or demonstrate techniques to assist the family to promote their infant's development.

(2) Parent education and training to assist families in understanding, planning for, and meeting the unique needs of their infant.

(3) Parent support groups to share similar experiences and possible solutions.

(4) Instruction in making toys and other materials appropriate to their infant's exceptional needs and development.

(b) The frequency of family involvement activities shall be at least once a month.

(c) Participation by families in family involvement activities shall be voluntary.

(d) This section shall become inoperative on July 1, 1998, and, as of January 1, 1999, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 1999, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 51. Section 56426.4 is added to the Education Code, to read:

56426.4. (a) Family involvement activities funded pursuant to Sections 56427, 56428, and 56432 shall support family members in meeting the practical and emotional issues and needs of raising their infant. These activities may include, but are not limited to, the following:

(1) Educational programs that present information or demonstrate techniques to assist the family to promote their infant's development.

(2) Parent education and training to assist families in understanding, planning for, and meeting the unique needs of their infant.

(3) Parent support groups to share similar experiences and possible solutions.

(4) Instruction in making toys and other materials appropriate to their infant's exceptional needs and development.

(b) The frequency of family involvement activities shall be at least once a month.

(c) Participation by families in family involvement activities shall be voluntary.

(d) This section shall become operative on July 1, 1998.

SEC. 52. Section 56427 of the Education Code is amended to read:

56427. (a) Not less than two million three hundred twenty-four thousand dollars ($2,324,000) of the federal discretionary funds appropriated to the State Department of Education under the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) in any fiscal year shall be expended for early education programs for infants with exceptional needs and their families, until the department determines, and the Legislature concurs, that the funds are no longer needed for that purpose.

(b) Programs ineligible to receive funding pursuant to Section 56425 or 56728.8 may receive funding pursuant to subdivision (a).

(c) This section shall become inoperative on July 1, 1998, and, as of January 1, 1999, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 1999, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 53. Section 56427 is added to the Education Code, to read:

56427. (a) Not less than two million three hundred twenty-four thousand dollars ($2,324,000) of the federal discretionary funds appropriated to the State Department of Education under the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) in any fiscal year shall be expended for early education programs for infants with exceptional needs and their families, until the department determines, and the Legislature concurs, that the funds are no longer needed for that purpose.

(b) Programs ineligible to receive funding pursuant to Section 56425 or 56432 may receive funding pursuant to subdivision (a).

(c) This section shall become operative on July 1, 1998.

SEC. 54. Section 56429 of the Education Code is amended to read:

56429. In order to assure the maximum utilization and coordination of local early education services, eligibility for the receipt of funds pursuant to Section 56425, 56427, 56428, or 56728.8 is conditioned upon the approval by the superintendent of a local plan for early education services, which approval shall apply for not less than one, nor more than four years. The local plan shall identify existing public and private early education services, and shall include an interagency plan for the delivery of early education services in accordance with the California Early Intervention Services Act, Title 14 (commencing with Section 95000) of the Government Code.

This section shall become inoperative on July 1, 1998, and, as of January 1, 1999, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 1999, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 55. Section 56429 is added to the Education Code, to read:

56429. In order to assure the maximum utilization and coordination of local early education services, eligibility for the

receipt of funds pursuant to Section 56425, 56427, 56428, or 56432 is conditioned upon the approval by the superintendent of a local plan for early education services, which approval shall apply for not less than one, nor more than four, years. The local plan shall identify existing public and private early education services, and shall include an interagency plan for the delivery of early education services in accordance with the California Early Intervention Services Act, Title 14 (commencing with Section 95000) of the Government Code.

This section shall become operative on July 1, 1998.

SEC. 56. Section 56430 of the Education Code is amended to read:

56430. (a) Early education services may be provided by any of the following methods:

(1) Directly by a local educational agency.

(2) Through an interagency agreement between a local educational agency and another public agency.

(3) Through a contract with another public agency pursuant to Section 56369.

(4) Through a contract with a certified nonpublic, nonsectarian school, or nonpublic, nonsectarian agency pursuant to Section 56366.

(5) Through a contract with a nonsectarian hospital in accordance with Section 56361.5.

(b) Contracts or agreements with agencies identified in subdivision (a) for early education services are strongly encouraged when early education services are currently provided by another agency, and when found to be a cost-effective means of providing the services. The placement of individual infants under the contract shall not require specific approval by the governing board of the district or the county office.

(c) Early education services provided under this chapter shall be funded pursuant to Sections 56427, 56428, and 56728.8. Early education programs shall not be funded pursuant to any of Sections 56740 to 56743, inclusive.

(d) This section shall become inoperative on July 1, 1998, and, as of January 1, 1999, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 1999, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 57. Section 56430 is added to the Education Code, to read:

56430. (a) Early education services may be provided by any of the following methods:

(1) Directly by a local educational agency.

(2) Through an interagency agreement between a local educational agency and another public agency.

(3) Through a contract with another public agency pursuant to Section 56369.

(4) Through a contract with a certified nonpublic, nonsectarian school, or nonpublic, nonsectarian agency pursuant to Section 56366.

(5) Through a contract with a nonsectarian hospital in accordance with Section 56361.5.

(b) Contracts or agreements with agencies identified in subdivision (a) for early education services are strongly encouraged when early education services are currently provided by another agency, and when found to be a cost-effective means of providing the services. The placement of individual infants under the contract shall not require specific approval by the governing board of the district or the county office.

(c) Early education services provided under this chapter shall be funded pursuant to Sections 56427, 56428, and 56432.

(d) This section shall become operative on July 1, 1998.

SEC. 58. Section 56432 is added to the Education Code, to read:

56432. (a) For the 1998–99 fiscal year and each fiscal year thereafter, a special education local plan area shall be eligible for state funding of those instructional personnel service units operated and fundable for services to individuals with exceptional needs younger than three years of age at the second principal apportionment of the prior fiscal year, as long as the pupil count of these pupils divided by the number of instructional personnel service units is not less than the following:

(1) For special classes and centers—12, based on the unduplicated pupil count.

(2) For resource specialist programs—24, based on the unduplicated pupil count.

(3) For designated instruction and services—12, based on the unduplicated pupil count, or 39, based on the duplicated pupil count.

(b) A special education local plan area shall be eligible for state funding of instructional personnel service units for services to individuals with exceptional needs younger than three years of age in excess of the number of instructional personnel service units operated and fundable at the second principal apportionment of the prior fiscal year only with the authorization of the superintendent.

(c) The superintendent shall base the authorization of funding for special education local plan areas pursuant to this section, including the reallocation of instructional personnel service units, upon criteria that shall include, but not be limited to, the following:

(1) Changes in the total number of pupils younger than three years of age enrolled in special education programs.

(2) High- and low-average caseloads per instructional personnel service unit for each instructional setting.

(d) Infant programs in special classes and centers funded pursuant to this item shall be supported by two aides, unless otherwise required by the superintendent.

(e) Infant services in resource specialist programs funded pursuant to this item shall be supported by one aide.

(f) When units are allocated pursuant to this subdivision, the superintendent shall allocate only the least expensive unit appropriate.

(g) Notwithstanding Sections 56211 and 56212, a special education local plan area may apply for, and the superintendent may grant, a waiver of any of the standards and criteria specified in this section if compliance would prevent the provision of a free, appropriate public education or would create undue hardship. In granting the waivers, the superintendent shall give priority to the following factors:

(1) Applications from special education local plan areas for waivers for a period not to exceed three years to specifically maintain or increase the level of special education services necessary to address the special education service requirements of individuals with exceptional needs residing in sparsely populated districts or attending isolated schools designated in the application.

(A) Sparsely populated districts are school districts that meet one of the following conditions:

(i) A school district or combination of contiguous school districts in which the total enrollment is less than 600 pupils, kindergarten and grades 1 to 12, inclusive, and in which one or more of the school facilities is an isolated school.

(ii) A school district or combination of contiguous school districts in which the total pupil density ratio is less than 15 pupils, kindergarten and grades 1 to 12, inclusive, per square mile and in which one or more of the school facilities is an isolated school.

(B) Isolated schools are schools with enrollments of less than 600 pupils, kindergarten and grades 1 to 12, inclusive, that meet one or more of the following conditions:

(i) The school is located more than 45 minutes average driving time over commonly used and well-traveled roads from the nearest school, including schools in adjacent special education local plan areas, with an enrollment greater than 600 pupils, kindergarten and grades 1 to 12, inclusive.

(ii) The school is separated, by roads that are impassable for extended periods of time due to inclement weather, from the nearest school, including schools in adjacent special education local plan areas, with an enrollment greater than 600 pupils, kindergarten and grades 1 to 12, inclusive.

(iii) The school is of a size and location that, when its enrollment is combined with the enrollments of the two largest schools within an average driving time of not more than 30 minutes over commonly used and well-traveled roads, including schools in adjacent special education local plan areas, the combined enrollment is less than 600 pupils, kindergarten and grades 1 to 12, inclusive.

(iv) The school is the one of normal attendance for a severely disabled individual, as defined in Section 56030.5, or an individual with a low-incidence disability, as defined in Section 56026.5, who otherwise would be required to be transported more than 75 minutes, average one-way driving time over commonly used and well-traveled roads, to the nearest appropriate program.

(2) The location of licensed children's institutions, foster family homes, residential medical facilities, or similar facilities that serve children younger than three years of age and are within the boundaries of a local plan if 3 percent or more of the local plan's unduplicated pupil count resides in those facilities.

(h) By authorizing units pursuant to this section, the superintendent shall not increase the statewide total number of instructional personnel service units for purposes of state apportionments unless an appropriation specifically for growth in the number of instructional personnel service units is made in the annual Budget Act or other legislation. If that growth appropriation is made, units authorized by the superintendent pursuant to this section are subject to the restrictions that the units shall be funded only by that growth appropriation and no other funds may be apportioned for the units.

(i) The superintendent shall monitor the use of instructional personnel service units retained or authorized by the granting of waivers pursuant to subdivision (h) to ensure that the instructional personnel service units are used in a manner wholly consistent with the basis for the waiver request.

(j) This section shall become operative on July 1, 1998.

SEC. 59. Section 56441.14 of the Education Code is amended to read:

56441.14. Criteria and options for meeting the special education transportation needs of individuals with exceptional needs between the ages of three and five, inclusive, shall be included in the local transportation policy required pursuant to paragraph (5) of subdivision (b) of Section 56195.8.

SEC. 60. Section 56448 of the Education Code is repealed.

SEC. 61. Section 56449 of the Education Code is repealed.

SEC. 62. Section 56500 of the Education Code is amended to read:

56500. As used in this chapter, "public education agency" means a district, special education local plan area, or county office, depending on the category of local plan elected by the governing board of a school district pursuant to Section 56195.1, or any other public agency providing special education or related services.

SEC. 63. Section 56832 is added to the Education Code, to read:

56832. (a) This chapter shall become inoperative on July 1, 1998, and, as of January 1, 1999, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 1999, deletes or extends the dates on which it becomes inoperative and is repealed.

(b) Notwithstanding subdivision (a), this chapter, as it existed on December 31, 1998, shall apply until June 30, 2001, for the purpose of recertifications of amounts funded under this chapter.

SEC. 64. Chapter 7.1 (commencing with Section 56835) is added to Part 30 of the Education Code, to read:

CHAPTER 7.1. EQUALIZATION FOR 1997–98 FISCAL YEAR

56835. It is the intent of the Legislature in enacting this chapter to provide a mechanism for computing a one-time equalization adjustment for local educational agencies providing special education and related services. It is further the intent of the Legislature to make equalization adjustments pursuant to this chapter for the 1997–98 fiscal year only to the extent funds are appropriated for that purpose. This chapter shall not be construed to establish any equalization entitlement in any fiscal year subsequent to the 1997–98 fiscal year.

56835.01. For the purposes of computing equalization adjustments for the 1997–98 fiscal year, the superintendent shall make the following computations to determine the special education services unit rates for services provided to pupils who are severely disabled and pupils who are not severely disabled for each district and each county office as follows:

(a) To determine the special education services unit rate for teachers of special day classes and centers for pupils who are severely disabled for the school district or county office of education, make the following computations:

(1) Add one to the support services quotient for severely disabled pupils for the annual apportionment for the 1995–96 fiscal year computed pursuant to subdivision (c) of Section 56737 and subdivision (c) of Section 56828, if applicable.

(2) Multiply the sum computed in paragraph (1) by the instructional personnel services unit rate for special day classes computed for the annual apportionment for the 1995–96 fiscal year pursuant to the applicable provisions of subdivision (a) of Section 56721, subdivision (a) of Section 56722, Sections 56723 and 56724, and subdivision (c) of Section 56828.

(3) Subtract the amount computed in subdivision (c) from the rate computed in paragraph (2). This is the special education services unit rate for teachers of special day classes and centers for pupils who are severely disabled to be used for the purpose of computing equalization adjustments for the district or county office pursuant to this chapter.

(b) For the purpose of computing, pursuant to subdivision (d), the average special education services unit rate for services to pupils who are not severely disabled, make the following computations for each district and county office:

(1) Determine the special education services unit rate for teachers of special day classes and centers for pupils with exceptional needs who are not severely disabled by making the following computations:

(A) Add one to the support services quotient for pupils with exceptional needs who are not severely disabled for the annual apportionment for the 1995–96 fiscal year computed pursuant to

subdivision (b) of Section 56737 and subdivision (c) of Section 56828, if applicable.

(B) Multiply the sum computed in subparagraph (A) by the instructional personnel services unit rate for special day classes computed for the annual apportionment for the 1995–96 fiscal year pursuant to the applicable provisions of subdivision (a) of Section 56721, subdivision (a) of 56722, Sections 56723 and 56724, and subdivision (c) of Section 56828.

(C) Multiply the number of instructional personnel services units for teachers of special day classes and centers for pupils who are not severely disabled reported for the district or county office for the annual apportionment for the 1995–96 fiscal year by the rate computed in subparagraph (B).

(2) Determine the special education services unit rate for resource specialists for the district or county office by making the following computations:

(A) Add one to the support services quotient for pupils with exceptional needs who are not severely disabled for the annual apportionment for the 1995–96 fiscal year computed pursuant to subdivision (b) of Section 56737 and subdivision (c) of Section 56828, if applicable.

(B) Multiply the sum computed in subparagraph (A) by the instructional personnel services unit rate for resource specialists computed for the annual apportionment for the 1995–96 fiscal year pursuant to the applicable provisions of subdivision (b) of Section 56721, subdivisions (d) and (e) of Section 56722, Sections 56723 and 56724, and subdivision (c) of Section 56828.

(C) Multiply the number of instructional personnel services units for resource specialists reported for the district or county office for the annual apportionment for the 1995–96 fiscal year by the rate computed in subparagraph (B).

(3) Determine the special education services unit rate for designated instruction and services by making the following computations:

(A) Add one to the support services quotient for pupils with exceptional needs who are not severely disabled computed for the annual apportionment for the 1995–96 fiscal year pursuant to subdivision (b) of Section 56737 and subdivision (c) of Section 56828, if applicable.

(B) Multiply the sum computed in subparagraph (A) by the instructional personnel services unit rate for designated instruction and services computed for the annual apportionment for the 1995–96 fiscal year pursuant to the applicable provisions of subdivision (c) of Section 56721, subdivision (f) of Section 56722, Sections 56723 and 56724, and subdivision (c) of Section 56828.

(C) Multiply the number of instructional personnel services units for designated instruction and services reported for the district or

county office for the annual apportionment for the 1995–96 fiscal year by the rate computed in subparagraph (B).

(c) For each district and county office, divide the amount computed pursuant to Article 6 (commencing with Section 56750) of Chapter 6 for the district or county office by the total number of instructional personnel services units reported for the types of special education services units specified in subdivision (a) and paragraphs (1), (2), and (3) of subdivision (b) for the annual apportionment for the 1995–96 fiscal year.

(d) For each district and county office, to determine the average special education services unit rate for services to pupils who are not severely disabled, make the following computations:

(1) Add the amounts computed for services to pupils who are not severely disabled pursuant to subparagraph (C) of paragraph (1), subparagraph (C) of paragraph (2), and subparagraph (C) of paragraph (3) of subdivision (b).

(2) Add the total number of instructional personnel services units for teachers of special day classes and centers for pupils who are not severely disabled, resource specialists, and designated instruction and services reported for the district or county office for the annual apportionment for the 1995–96 fiscal year.

(3) Divide the amount computed in paragraph (1) by the number computed in paragraph (2).

(4) Subtract the amount computed in subdivision (c) from the rate computed in paragraph (3). This is the average special education services unit rate for services to pupils who are not severely disabled for the district or county office.

56835.02. For the purposes of computing equalization adjustments for the 1997–98 fiscal year, the superintendent shall make the following computations to determine the special education services unit rates for instructional aides for pupils with exceptional needs for each district and each county office:

(a) To determine the special education services unit rate for instructional aides for pupils who are severely disabled for the district or county office, make the following computations:

(1) Add one to the support services quotient for severely disabled pupils for the annual apportionment for the 1995–96 fiscal year computed pursuant to subdivision (c) of Section 56737 and subdivision (c) of Section 56828, if applicable.

(2) Multiply the sum computed in paragraph (1) by the instructional personnel services unit rate for instructional aides computed for the annual apportionment for the 1995–96 fiscal year pursuant to the applicable provisions of subdivision (d) of Section 56721, Sections 56722, 56723, and 56724, and subdivision (c) of Section 56828.

(b) To determine the unit rate for instructional aides for pupils with exceptional needs who are not severely disabled for the district or county office, make the following computations:

(1) Add one to the support services quotient for pupils with exceptional needs who are not severely disabled for the annual apportionment for the 1995–96 fiscal year computed pursuant to subdivision (b) of Section 56737 and subdivision (c) of Section 56828, if applicable.

(2) Multiply the sum computed in paragraph (1) by the instructional personnel services unit rate for instructional aides computed for the annual apportionment for the 1995–96 fiscal year pursuant to the applicable provisions of subdivision (d) of Section 56721, Sections 56722, 56723, and 56724, and subdivision (c) of Section 56828.

56835.03. For the 1997–98 fiscal year only, the superintendent shall make the following computations to determine the amounts of the equalization adjustment, if any, for the types of special education services units described in Sections 56835.01 and 56835.02 for each district and county office:

(a) To arrive at the statewide average unit rate for each type of special education services unit for the 1995–96 fiscal year, as computed for districts and county offices pursuant to Sections 56835.01 and 56835.02, perform the following computations:

(1) Make the following computations to determine the statewide average unit rates for districts for the following types of special education services units:

(A) To determine the statewide average unit rate for teachers of special day classes and centers for pupils who are severely disabled:

(i) Multiply the special education services unit rate for teachers of special day classes and centers for pupils who are severely disabled computed for each district pursuant to subdivision (a) of Section 56835.01 by the total number of instructional personnel services units reported for teachers of special day classes and centers for pupils who are severely disabled for the district for the annual apportionment for the 1995–96 fiscal year.

(ii) Total the products for each district computed pursuant to clause (i).

(iii) Total the number of instructional personnel services units for teachers of special day classes and centers for pupils who are severely disabled reported for each district for the annual apportionment for the 1995–96 fiscal year.

(iv) Divide the sum computed pursuant to clause (ii) by the sum computed pursuant to clause (iii).

(B) To determine the statewide average unit rate for special education services to pupils who are not severely disabled:

(i) Multiply the average special education services unit rate for services to pupils who are not severely disabled computed for each district pursuant to subdivision (d) of Section 56835.01 by the total number of instructional personnel services units for pupils who are not severely disabled reported for the district for the annual apportionment for the 1995–96 fiscal year.

(ii) Total the products for each district computed pursuant to clause (i).

(iii) Total the number of instructional personnel services units for special education services to pupils who are not severely disabled reported for each district for the annual apportionment for the 1995–96 fiscal year.

(iv) Divide the sum computed pursuant to clause (ii) by the sum computed pursuant to clause (iii).

(C) To determine the statewide average unit rate for instructional aides for pupils who are severely disabled:

(i) Multiply the special education services unit rate for instructional aides for pupils who are severely disabled computed for each district pursuant to subdivision (a) of Section 56835.02 by the total number of instructional personnel services units for instructional aides for pupils who are severely disabled reported for the district for the annual apportionment for the 1995–96 fiscal year.

(ii) Total the products for each district computed pursuant to clause (i).

(iii) Total the number of instructional personnel services units for instructional aides for pupils who are severely disabled reported for each district for the annual apportionment for the 1995–96 fiscal year.

(iv) Divide the sum computed pursuant to clause (ii) by the sum computed pursuant to clause (iii).

(D) To determine the statewide average unit rate for instructional aides for pupils who are not severely disabled:

(i) Multiply the special education services unit rate for instructional aides for pupils who are not severely disabled computed for each district pursuant to subdivision (b) of Section 56835.02 by the total number of instructional personnel services units for instructional aides for pupils who not are severely disabled reported for the district for the annual apportionment for the 1995–96 fiscal year.

(ii) Total the products for each district computed pursuant to clause (i).

(iii) Total the number of instructional personnel services units for instructional aides for pupils who are not severely disabled reported for each district for the annual apportionment for the 1995–96 fiscal year.

(iv) Divide the sum computed pursuant to clause (ii) by the sum computed pursuant to clause (iii).

(2) Make the following computations to determine the statewide average special education services unit rates for county offices for the following types of special education services units:

(A) To determine the statewide average unit rate for teachers of special day classes and centers for pupils who are severely disabled:

(i) Multiply the special education services unit rate for teachers of special day classes and centers for pupils who are severely disabled computed for each county office pursuant to subdivision (a) of

Section 56835.01 by the total number of instructional personnel services units reported for teachers of special day classes and centers for pupils who are severely disabled for the county office for the annual apportionment for the 1995–96 fiscal year.

(ii) Total the products for each county office computed pursuant to clause (i).

(iii) Total the number of instructional personnel services units for teachers of special day classes and centers for pupils who are severely disabled reported for each county office for the annual apportionment for the 1995–96 fiscal year.

(iv) Divide the sum computed pursuant to clause (ii) by the sum computed pursuant to clause (iii).

(B) To determine the statewide average unit rate for special education services to pupils who are not severely disabled:

(i) Multiply the average special education services unit rate for services to pupils who are not severely disabled computed for each county office pursuant to subdivision (d) of Section 56835.01 by the total number of instructional personnel services units reported for pupils who are not severely disabled reported for the county office for the annual apportionment for the 1995–96 fiscal year.

(ii) Total the products for each county office computed pursuant to clause (i).

(iii) Total the number of instructional personnel services units for special education services to pupils who are not severely disabled reported for each county office for the annual apportionment for the 1995–96 fiscal year.

(iv) Divide the sum computed pursuant to clause (ii) by the sum computed pursuant to clause (iii).

(C) To determine the statewide average unit rate for instructional aides for pupils who are severely disabled:

(i) Multiply the special education services unit rate for instructional aides for pupils who are severely disabled computed for each county office pursuant to subdivision (a) of Section 56835.02 by the total number of instructional personnel services units for instructional aides for pupils who are severely disabled reported for the county office for the annual apportionment for the 1995–96 fiscal year.

(ii) Total the products for each county office computed pursuant to clause (i).

(iii) Total the number of instructional personnel services units for instructional aides for pupils who are severely disabled reported for each county office for the annual apportionment for the 1995–96 fiscal year.

(iv) Divide the sum computed pursuant to clause (ii) by the sum computed pursuant to clause (iii).

(D) To determine the statewide average unit rate for instructional aides for pupils who are not severely disabled:

(i) Multiply the special education services unit rate for instructional aides for pupils who are not severely disabled computed for each county office pursuant to subdivision (b) of Section 56835.02 by the total number of instructional personnel services units for instructional aides for pupils who are not severely disabled reported for the county office for the annual apportionment for the 1995–96 fiscal year.

(ii) Total the products for each county office computed pursuant to clause (i).

(iii) Total the number of instructional personnel services units for instructional aides for pupils who are not severely disabled reported for each county office for the annual apportionment for the 1995–96 fiscal year.

(iv) Divide the sum computed pursuant to clause (ii) by the sum computed pursuant to clause (iii).

(b) Make the following computations to determine the difference between the unit rate computed for each type of special education services unit for each district and county office and the statewide average unit rate computed in subdivision (a) for each type of special education services unit for districts and county offices:

(1) For each district, make the following computations:

(A) Subtract the special education services unit rate for teachers of special day classes and centers for pupils who are severely disabled computed for the district pursuant to subdivision (a) of Section 56835.01 from the statewide average unit rate for teachers of special day classes and centers for pupils who are severely disabled computed pursuant to subparagraph (A) of paragraph (1) of subdivision (a).

(B) Subtract the average special education services unit rate for services to pupils who are not severely disabled computed for the district pursuant to subdivision (d) of Section 56835.01 from the statewide average unit rate for services to pupils who are not severely disabled computed pursuant to subparagraph (B) of paragraph (1) of subdivision (a).

(C) Subtract the special education services unit rate for instructional aides for pupils who are severely disabled computed for the district pursuant to subdivision (a) of Section 56835.02 from the statewide average unit rate for instructional aides for pupils who are severely disabled computed pursuant to subparagraph (C) of paragraph (1) of subdivision (a).

(D) Subtract the special education services unit rate for instructional aides for pupils who are not severely disabled computed for the district pursuant to subdivision (b) of Section 56835.02 from the statewide average unit rate for instructional aides for pupils who are not severely disabled computed pursuant to subparagraph (D) of paragraph (1) of subdivision (a).

(2) For each county office, make the following computations:

(A) Subtract the special education services unit rate for teachers of special day classes and centers for pupils who are severely disabled computed for the county office pursuant to subdivision (a) of Section 56835.01 from the statewide average unit rate for teachers of special day classes and centers for pupils who are severely disabled computed pursuant to subparagraph (A) of paragraph (2) of subdivision (a).

(B) Subtract the average special education services unit rate for services to pupils who are not severely disabled computed for the county office pursuant to subdivision (d) of Section 56835.01 from the statewide average unit rate for services to pupils who are not severely disabled computed pursuant to subparagraph (B) of paragraph (2) of subdivision (a).

(C) Subtract the special education services unit rate for instructional aides for pupils who are severely disabled computed for the county office pursuant to subdivision (a) of Section 56835.02 from the statewide average unit rate for instructional aides for pupils who are severely disabled computed pursuant to subparagraph (C) of paragraph (2) of subdivision (a).

(D) Subtract the special education services unit rate for instructional aides for pupils who are not severely disabled computed for the county office pursuant to subdivision (b) of Section 56835.02 from the statewide average unit rate for instructional aides for pupils who are not severely disabled computed pursuant to subparagraph (D) of paragraph (2) of subdivision (a).

(c) For each district and county office, multiply the difference in the unit rate determined for each type of special education services unit pursuant to subdivision (b) by the total number of units of that type of special education services unit that were reported for the district or county office at the annual apportionment for the 1995–96 fiscal year.

(d) For each district and county office, add the amounts computed pursuant to subdivision (c) for the district or county office that are zero or greater. Each district and county office having an amount that is zero or greater shall receive an equalization adjustment in the amount computed pursuant to subdivision (g).

(e) Total the amounts computed pursuant to subdivision (d) for each district and county office to determine the total statewide amount necessary to fully fund this section in the 1997–98 fiscal year.

(f) Divide the amount that is actually appropriated for the 1997–98 fiscal year for the purpose of equalization pursuant to this chapter by the amount computed pursuant to subdivision (e) to determine the percentage of the amount computed for each district and county office pursuant to subdivision (d) that will be funded pursuant to this section.

(g) For the 1997–98 fiscal year to determine the amount of the equalization adjustment to apportion to each eligible district and county office pursuant to this section, multiply the amount computed

pursuant to subdivision (d) by the percentage computed pursuant to subdivision (f). The superintendent shall apportion an equalization adjustment for the 1997–98 fiscal year in the amount equal to that product to the district or county office.

56835.04. (a) The data certified by the State Department of Education to the Controller for the 1995–96 fiscal year with respect to apportionments computed under Chapter 7 (commencing with Section 56700) shall be used for the purposes of making computations based upon the 1995–96 fiscal year pursuant to this chapter.

(b) For purposes of this chapter, information reported "for the 1995–96 annual apportionment" means the data meeting the requirements of subdivision (a), as certified in March 1997.

56835.05. (a) The department shall continuously monitor and review all special education programs approved under this chapter to assure that all funds appropriated to districts and county offices under this chapter are expended for the purposes intended.

(b) Funds apportioned to districts and county offices pursuant to this chapter shall be expended exclusively for programs operated under this part.

56835.06. Regardless of when this act becomes effective, it is the intent of the Legislature to make the apportionments for the equalization adjustments computed pursuant to this chapter for the entire 1997–98 fiscal year.

56835.07. This chapter shall become inoperative on July 1, 1998, and, as of January 1, 1999, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 1999, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 65. Chapter 7.2 (commencing with Section 56836) is added to Part 30 of the Education Code, to read:

## Chapter 7.2. Special Education Funding

### Article 1. Administration

56836. Commencing with the 1998–99 fiscal year and for each fiscal year thereafter, apportionments to special education local plan areas for special education programs operated by, and services provided by, districts, county offices, and special education local plan areas shall be computed pursuant to this chapter.

56836.01. Commencing with the 1998–99 fiscal year and each fiscal year thereafter, the administrator of each special education local plan area, in accordance with the local plan approved by the superintendent, shall be responsible for the following:

(a) The fiscal administration of the annual budget allocation plan for special education programs of school districts and county superintendents of schools composing the special education local plan area.

(b) The allocation of state and federal funds allocated to the special education local plan area for the provision of special education and related services by those entities.

(c) The reporting and accounting requirements prescribed by this part.

56836.02. (a) The superintendent shall apportion funds from Section A of the State School Fund to districts and county offices of education in accordance with the allocation plan adopted pursuant to subdivision (f) of Section 56205, unless the local plan approved by the superintendent specified that they be apportioned to the administrative unit of the special education local plan area. If the local plan specifies that the funds be apportioned to the administrative unit of the special education local plan area, the administrator of the special education local plan area shall, upon receipt, distribute the funds in accordance with the allocation plan adopted pursuant to subdivision (f) of Section 56205. Unless the local plan approved by the superintendent specifies an alternative method of distributing state and local funds among the participating local educational agencies, the funds shall be distributed by the special education local plan area as allocated instructional personnel service units and operated as computed in Chapter 7 (commencing with Section 56700) as that chapter existed on December 31, 1998, or Chapter 7.1 (commencing with Section 56835).

(b) The superintendent shall apportion funds for regionalized services and program specialists from Section A of the State School Fund to the administrative unit of each special education local plan area. Upon receipt, the administrator of a special education local plan area shall direct the administrative unit of the special education local plan area to distribute the funds in accordance with the allocation plan adopted pursuant to subdivision (f) of Section 56205.

56836.03. (a) On or after January 1, 1998, each special education local plan area shall submit a revised local plan. Each special education local plan area shall submit its revised local plan not later than the time it is required to submit its local plan pursuant to subdivision (b) of Section 56100 and the revised local plan shall meet the requirements of Chapter 3 (commencing with Section 56200).

(b) Until the superintendent has approved the revised local plan and the special education local plan area begins to operate under the revised local plan, each special education local plan area shall continue to operate under the programmatic, reporting, and accounting requirements prescribed by the State Department of Education for the purposes of Chapter 7 (commencing with Section 56700) as that chapter existed on December 31, 1998. The department shall develop transition guidelines, and, as necessary, transition forms, to facilitate a transition from the reporting and accounting methods required for Chapter 7 (commencing with Section 56700) as that chapter existed on December 31, 1998, and related provisions of this part, to the reporting and accounting

methods required for this chapter. Under no circumstances shall the transition guidelines exceed the requirements of the provisions described in paragraphs (1) and (2). The transition guidelines shall, at a minimum, do the following:

(1) Describe the method for accounting for the instructional service personnel units and caseloads, as required by Chapter 7 (commencing with Section 56700) as that chapter existed on December 31, 1998.

(2) Describe the accounting that is required to be made, if any, for the purposes of Sections 56030, 56140, 56156.5, 56361.5, 56362, 56363.3, 56365.5, 56366.2, 56366.3, 56370, 56441.5, 56441.7, and 56447.

(c) Commencing with the 1997–98 fiscal year, through and including the fiscal year in which equalization among special education local plan areas has been achieved, the board shall not approve any proposal to divide a special education local plan area into two or more units, unless the division has no net impact on state costs for special education; provided, however, that the board may approve a proposal that was initially submitted to the department prior to January 1, 1997.

56836.04. (a) The superintendent shall continuously monitor and review all special education programs approved under this part to assure that all funds appropriated to special education local plan areas under this part are expended for the purposes intended.

(b) Funds apportioned to special education local plan areas pursuant to this chapter shall be expended exclusively for programs operated under this part.

56836.05. Apportionments made under this part shall be made by the superintendent as early as practicable in the fiscal year. Upon order of the superintendent, the Controller shall draw warrants upon the money appropriated, in favor of the eligible special education local plan areas.

### Article 2. Computation of Apportionments

56836.06. For the purposes of this article, the following terms or phrases shall have the following meanings, unless the context clearly requires otherwise:

(a) "Average daily attendance reported for the special education local plan area" means the total of the following:

(1) The total number of units of average daily attendance reported for the second principal apportionment pursuant to Section 41601 for all pupils enrolled in the district or districts that are a part of the special education local plan area.

(2) The total number of units of average daily attendance reported pursuant to Section 41601 for all pupils enrolled in schools operated by the county office or offices that compose the special education local plan area, or for those county offices that are a part of more than one special education local plan area, that portion of the

average daily attendance of pupils enrolled in the schools operated by the county office that are under the jurisdiction of the special education local plan area.

(b) "Special education local plan area" includes the school district or districts and county office or offices of education composing the special education local plan area.

(c) "The fiscal year in which equalization among special education local plan areas has been achieved" means the first fiscal year in which each special education local plan area is funded at or above the statewide target amount per unit of average daily attendance, as computed pursuant to Section 56836.11.

56836.08. (a) For the 1998–99 fiscal year, the superintendent shall make the following computations to determine the amount of funding for each special education local plan area:

(1) Add the amount of funding per unit of average daily attendance computed for the special education local plan area pursuant to paragraph (1) of subdivision (a) of Section 56836.10 to the inflation adjustment computed pursuant to subdivision (d) for the 1998–99 fiscal year.

(2) Multiply the amount computed in paragraph (1) by the units of average daily attendance reported for the special education local plan area for the 1997–98 fiscal year.

(3) Add the actual amount of the equalization adjustment, if any, computed for the 1998–99 fiscal year pursuant to Section 56836.14 to the amount computed in paragraph (2).

(4) Add or subtract, as appropriate, the adjustment for growth computed pursuant to Section 56836.15 from the amount computed in paragraph (3).

(5) Add the special disabilities adjustment computed pursuant to Article 2.5 (commencing with Section 56836.155).

(b) For the 1999–2000 fiscal year and each fiscal year thereafter, the superintendent shall make the following computations to determine the amount of funding for each special education local plan area for the fiscal year in which the computation is made:

(1) Add the amount of funding per unit of average daily attendance computed for the special education local plan area for the prior fiscal year pursuant to Section 56836.10 to the inflation adjustment computed pursuant to subdivision (d) for the fiscal year in which the computation is made.

(2) Multiply the amount computed in paragraph (1) by the units of average daily attendance reported for the special education local plan area for the prior fiscal year.

(3) Add the actual amount of the equalization adjustment, if any, computed for the special education local plan area for the fiscal year in which the computation is made pursuant to Section 56836.14 to the amount computed in paragraph (2).

(4) Add or subtract, as appropriate, the adjustment for growth or decline in enrollment, if any, computed for the special education

local plan area for the fiscal year in which the computation is made pursuant to Section 56836.15 from the amount computed in paragraph (3).

(5) Add the special disabilities adjustment computed pursuant to Article 2.5 (commencing with Section 56836.155) and increased pursuant to subparagraph (D) if the adjusted funding per unit of average daily attendance of the special education local plan area is below the statewide target amount per unit of average daily attendance as determined pursuant to subparagraphs (A) to (C), inclusive, as follows:

(A) Calculate the adjusted amount of funding per unit of average daily attendance for each special education local plan area, measured in dollars and cents, using the methodology contained in subdivision (a) of Section 56836.10, except that the amount used from the computation in Section 56836.09 shall be reduced by the amount computed pursuant to Article 2.5 (commencing with Section 56836.155).

(B) Determine the statewide target amount per unit of average daily attendance, measured in dollars and cents and rounded up to the nearest 50 cents ($0.50), as computed pursuant to subdivision (a) of Section 56836.11.

(C) The adjusted funding per unit of average daily attendance is below the statewide target amount if the amount calculated pursuant to subparagraph (A), subtracted from the amount calculated pursuant to subparagraph (B), yields a positive value.

(D) If the computation made pursuant to subparagraph (C) yields a positive value, increase the special disabilities adjustment in the 1999–2000 fiscal year and each year thereafter by the percent increase in growth in average daily attendance reported by the special education local plan area and the inflation factor computed pursuant to subdivision (b) of Section 42238.1 for the applicable fiscal year.

(E) Inclusion of the special disabilities adjustment in the total funding of a special education local plan area shall neither change nor be included in the computation of equalization funding pursuant to Section 56836.12 or the computations made after this computation that precede the computation in Section 56836.12.

(c) For the 1998–99 fiscal year and each fiscal year thereafter, the superintendent shall make the following computations to determine the amount of General Fund moneys that the special education local plan area may claim:

(1) Add the total of the amount of property taxes allocated to the special education local plan area pursuant to Section 2572 for the fiscal year in which the computation is made to the amount of federal funds allocated to the special education local plan area pursuant to Part B of the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) for the fiscal year in which the computation is made.

(2) Add the amount of funding computed for the special education local plan area pursuant to subdivision (a) for the 1998–99 fiscal year, and commencing with the 1999–2000 fiscal year and each fiscal year thereafter, the amount computed for the fiscal year in which the computations were made pursuant to subdivision (b) to the amount of funding computed for the special education local plan area pursuant to Article 3 (commencing with Section 56836.16).

(3) Subtract the sum computed in paragraph (1) from the sum computed in paragraph (2).

(d) For the 1998–99 fiscal year and each fiscal year thereafter, the superintendent shall make the following computations to determine the inflation adjustment for the fiscal year in which the computation is made:

(1) For the 1998–99 fiscal year, multiply the statewide target amount per unit of average daily attendance for special education local plan areas for the 1997–98 fiscal year computed pursuant to paragraph (3) of Section 56836.11 by the inflation factor computed pursuant to subdivision (b) of Section 42238.1 for the 1998–99 fiscal year.

(2) For the 1999–2000 fiscal year and each fiscal year thereafter, multiply the statewide target amount per unit of average daily attendance for special education local plan areas for the prior fiscal year computed pursuant to Section 56836.11 by the inflation factor computed pursuant to subdivision (b) of Section 42238.1 for the fiscal year in which the computation is made.

56836.09. For the purpose of computing the amount to apportion to each special education local plan area for the 1998–99 fiscal year, the superintendent shall compute the total amount of funding received by the special education local plan area for the 1997–98 fiscal year as follows:

(a) Add the following amounts that were received for the 1997–98 fiscal year:

(1) The total amount of federal funds available to the state pursuant to Part B of the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) allocated to the special education local plan area for the purposes of special education for individuals with exceptional needs enrolled in kindergarten and grades 1 to 12, inclusive.

(2) The total amount of federal funds available to the state pursuant to Part B of the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) allocated to the special education local plan area for the purposes of providing preschool and related services to individuals with exceptional needs who are ages 3 to 5 years, inclusive, pursuant to Chapter 4.45 (commencing with Section 56440).

(3) The total amount of property taxes allocated to the special education local plan area pursuant to Section 2572.

(4) The total amount of General Fund moneys allocated to the special education local plan area pursuant to Chapter 7 (commencing with Section 56700) plus the total amount received for equalization pursuant to Chapter 7.1 (commencing with Section 56835), as those chapters existed on December 31, 1998.

(5) The total amount of General Fund moneys and federal funds available to the state pursuant to Part B of the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) allocated to another special education local plan area for any pupils with exceptional needs who are served by the other special education local plan area but who are residents of the special education local plan area for which this computation is being made.

(b) Add the following amounts received in the 1997–98 fiscal year:

(1) The total amount determined for the special education local plan area for the purpose of providing nonpublic, nonsectarian school services to licensed children's institutions, foster family homes, residential medical facilities, and other similar facilities for the 1997–98 fiscal year pursuant to Article 3 (commencing with Section 56836.16).

(2) The total amount of General Fund moneys and federal funds available to the state pursuant to Part B of the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) allocated for any pupils with exceptional needs who are served by the special education local plan area but who do not reside within the boundaries of the special education local plan area.

(3) The total amount of General Fund moneys allocated to the special education local plan area to perform the regionalized operations and services functions listed in Article 6 (commencing with Section 56836.23) and to provide the direct instructional support of program specialists in accordance with Section 56368.

(4) The total amount of General Fund moneys allocated to the special education local plan area for individuals with exceptional needs younger than three years of age pursuant to Chapter 7 (commencing with Section 56700), as that chapter existed on December 31, 1998.

(5) The total amount of General Fund moneys allocated to local education agencies within the special education local plan area pursuant to Section 56771, as that section existed on December 31, 1998, for specialized books, materials, and equipment for pupils with low-incidence disabilities.

(c) Subtract the sum computed in subdivision (b) from the sum computed in subdivision (a).

56836.10. (a) The superintendent shall make the following computations to determine the amount of funding per unit of average daily attendance for each special education local plan area for the 1998–99 fiscal year:

(1) Divide the amount of funding for the special education local plan area computed for the 1997–98 fiscal year pursuant to Section

56836.09 by the number of units of average daily attendance reported for the special education local plan area for the 1997–98 fiscal year.

(2) Add the amount computed in paragraph (1) to the inflation adjustment computed pursuant to subdivision (d) of Section 56836.08 for the 1998–99 fiscal year.

(b) Commencing with the 1999–2000 fiscal year and each fiscal year thereafter, the superintendent shall make the following computations to determine the amount of funding per unit of average daily attendance for each special education local plan area for the fiscal year in which the computation is made:

(1) For the 1999–2000 fiscal year, divide the amount of funding for the special education local plan area computed for the 1998–99 fiscal year pursuant to subdivision (a) of Section 56836.08 by the number of units of average daily attendance reported for the special education local plan area for the 1998–99 fiscal year.

(2) For the 2000–01 fiscal year, and each fiscal year thereafter, divide the amount of funding for the special education local plan area computed for the prior fiscal year pursuant to subdivision (b) of Section 56836.08 by the number of units of average daily attendance reported for the special education local plan area for the prior fiscal year.

56836.11. (a) For the purpose of computing the equalization adjustment for special education local plan areas for the 1998–99 fiscal year, the superintendent shall make the following computations to determine the statewide target amount per unit of average daily attendance for special education local plan areas:

(1) Total the amount of funding computed for each special education local plan area pursuant to Section 56836.09 for the 1997–98 fiscal year.

(2) Total the number of units of average daily attendance reported for each special education local plan area for the 1997–98 fiscal year.

(3) Divide the sum computed in paragraph (1) by the sum computed in paragraph (2) to determine the statewide target amount for the 1997–98 fiscal year.

(4) Add the amount computed in paragraph (3) to the inflation adjustment computed pursuant to subdivision (d) of Section 56836.08 for the 1998–99 fiscal year to determine the statewide target amount for the 1998–99 fiscal year.

(b) Commencing with the 1999–2000 fiscal year and each fiscal year thereafter, to determine the statewide target amount per unit of average daily attendance for special education local plan areas, the superintendent shall multiply the statewide target amount per unit of average daily attendance computed for the prior fiscal year pursuant to this section by one plus the inflation factor computed pursuant to subdivision (b) of Section 42238.1 for the fiscal year in which the computation is made.

56836.12. (a) For the purpose of computing the equalization adjustment for special education local plan areas for the 1998–99 fiscal year, the superintendent shall make the following computations to determine the amount that each special education local plan area that has an amount per unit of average daily attendance that is below the statewide target amount per unit of average daily attendance may request as an equalization adjustment:

(1) Subtract the amount per unit of average daily attendance computed for the special education local plan area pursuant to subdivision (a) of Section 56836.10 from the statewide target amount per unit of average daily attendance determined pursuant to subdivision (a) of Section 56836.11.

(2) If the remainder computed in paragraph (1) is greater than zero, multiply that remainder by the number of units of average daily attendance reported for the special education local plan area for the 1997–98 fiscal year.

(b) Commencing with the 1999–2000 fiscal year, through and including the fiscal year in which equalization among the special education local plan areas has been achieved, the superintendent shall make the following computations to determine the amount that each special education local plan area that has an amount per unit of average daily attendance that is below the statewide target amount per unit of average daily attendance may request as an equalization adjustment:

(1) Add to the amount per unit of average daily attendance computed for the special education local plan area pursuant to subdivision (b) of Section 56836.10 for the fiscal year in which the computation is made the inflation adjustment computed pursuant to subdivision (d) of Section 56836.08 for the fiscal year in which the computation is made.

(2) Subtract the amount computed pursuant to paragraph (1) from the statewide target amount per unit of average daily attendance computed pursuant to subdivision (b) of Section 56936.11 for the fiscal year in which the computation is made.

(3) If the remainder computed in paragraph (2) is greater than zero, multiply that remainder by the number of units of average daily attendance reported for the special education local plan area for the prior fiscal year.

56836.13. Commencing with the 1998–99 fiscal year, through and including the fiscal year in which equalization among the special education local plan areas has been achieved, the superintendent shall make the following computations to determine the amount available for making equalization adjustments for the fiscal year in which the computation is made:

(a) Determine the amounts of funds equal to the increase in federal funds, if any, appropriated in the annual Budget Act for the purposes of equalizing funding for special education local plan areas pursuant to this chapter. The increase shall be computed by

subtracting the amount of federal funds available to the state pursuant to Part B of the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) for the fiscal year in which the computation is made from the amount available to the state from those funds for the prior fiscal year.

(b) Subtract the amount computed in subdivision (a) from the amount of funds provided for increased costs to the state in administering the special education program.

(c) Add to the amount in subdivision (b), the amount of additional funds, if any, appropriated in the fiscal year for which the computation is made in the annual Budget Act for the purposes of equalizing funding for special education local plan areas pursuant to this chapter.

56836.14. Commencing with the 1998–99 fiscal year, through and including the fiscal year in which equalization among the special education local plan areas has been achieved, the superintendent shall make the following computations to determine the actual amount of the equalization adjustment for each special education local plan area that has an amount per unit of average daily attendance that is below the statewide target amount per unit of average daily attendance:

(a) Add the amount determined for each special education local plan area pursuant to Section 56836.12 for the fiscal year in which the computation is made to determine the total statewide aggregate amount necessary to fund each special education local plan area at the statewide target amount per unit of average daily attendance for special education local plan areas.

(b) Divide the amount computed in subdivision (a) by the amount computed pursuant to Section 56836.13 to determine the percentage of the total amount of funds necessary to fund each special education local plan area at the statewide target amount per unit of average daily attendance for special education local plan areas that are actually available for that purpose.

(c) To determine the amount to allocate to the special education local plan area for a special education local plan area equalization adjustment, multiply the amount computed for the special education local plan area pursuant to Section 56836.12, if any, by the percentage determined in subdivision (b).

56836.15. (a) In order to mitigate the effects of any declining enrollment, commencing in the 1998–99 fiscal year, and each fiscal year thereafter, the superintendent shall calculate allocations to special education local plan areas based on the average daily attendance reported for the special education local plan area for the fiscal year in which the computation is made or the prior fiscal year, whichever is greater. However, the prior fiscal year average daily attendance reported for the special education local plan area shall be adjusted for any loss or gain of average daily attendance reported for

the special education local plan area due to a reorganization or transfer of territory in the special education local plan area.

(b) If in the fiscal year for which the computation is made, the number of units of average daily attendance upon which allocations to the special education local plan area are based is greater than the number of units of average daily attendance upon which allocations to the special education local plan area were based in the prior fiscal year, the special education local plan area shall be allocated a growth adjustment equal to the product determined by multiplying the amounts determined under paragraphs (1) and (2).

(1) The statewide target amount per unit of average daily attendance for special education local plan areas determined pursuant to Section 56836.11.

(2) The difference between the number of units of average daily attendance upon which allocations to the special education local plan area are based for the fiscal year in which the computation is made and the number of units of average daily attendance upon which allocations to the special education local plan area were based for the prior fiscal year.

(c) If in the fiscal year for which the computation is made, the number of units of average daily attendance upon which allocations to the special education local plan area are based is less than the number of units of average daily attendance upon which allocations to the special education local plan area were based in the prior fiscal year, the special education local plan area shall receive a funding reduction equal to the product determined by multiplying the amounts determined under paragraphs (1) and (2):

(1) The amount of funding per unit of average daily attendance computed for the special education local plan area for the prior fiscal year.

(2) The difference between the number of units of average daily attendance upon which allocations to the special education local plan area are based for the fiscal year in which the computation is made and the number of units of average daily attendance upon which allocations to the special education local plan area were based for the prior fiscal year.

## Article 2.5. Computation of Adjustment

56836.155. (a) For the 1998–99 fiscal year, prior to calculating the apportionment in Article 2 (commencing with Section 56836.06), the superintendent shall perform the following calculation:

(1) Determine for each special education local plan area the number of pupils with exceptional needs with the special disabilities specified in subdivision (b) for pupils residing in the special education local plan area based on the April 1996 pupil count.

(2) Determine for each special education local plan area the total reported incidence of all disabilities for pupils of age 3 to 22 years,

inclusive, excluding pupils in placements as described in paragraph (1) of subdivision (b).

(3) Determine the statewide total of reported incidence of special disabilities determined pursuant to paragraph (1).

(4) Determine the statewide total reported incidence of all disabilities determined pursuant to paragraph (2).

(b) For the purposes of paragraph (1) of subdivision (a), the superintendent shall use the count of all pupils with exceptional needs of age 3 to 22 years, inclusive, exclusive of placements in paragraph (1) and inclusive of the disabilities in paragraph (2).

(1) Pupils in state operated programs, nonpublic schools, and out-of-home placements.

(2) Pupils with low-incidence disabilities of autistic, hard of hearing, deaf, visually impaired, deaf, blind, and severe orthopedic impairment, except that, for the purposes of subdivision (a), pupils in the disability category of orthopedic impairment shall be used in the absence of special education local plan area counts of only severe orthopedic impairment. To the count of low-incidence disabilities, also add pupils in the disability category of traumatic brain injury.

(c) Calculate, for each special education local plan area, the reported incidence of special disabilities as a percentage of its total reported incidence of all disabilities by dividing the amount in paragraph (1) of subdivision (a) by the amount in paragraph (2) of subdivision (a). The percentage amount is to be expressed to the accuracy of one hundredth of a percentage point.

(d) Calculate the statewide total of reported incidence of special disabilities as a percent of the statewide total incidence of all disabilities by dividing the amount in paragraph (3) of subdivision (a) by the amount in paragraph (4) of subdivision (a). The percent amount is to be expressed to the accuracy of one hundredth of a percentage point.

(e) For each special education local plan area whose percentage of special disabilities calculated pursuant to subdivision (c) is greater than the statewide percent of special disabilities pursuant to subdivision (d), determine the number of excess pupils in the special education local plan area as follows:

(1) Multiply the statewide percent of special disabilities calculated in subdivision (d) by the count by the special education local plan area of all disabilities determined pursuant to paragraph (2) of subdivision (a).

(2) Subtract the amount calculated in paragraph (1) from the count by the special education local plan area of special disabilities determined pursuant to paragraph (1) of subdivision (a). Round this number to the nearest whole number.

(f) Multiply the number of excess pupils calculated in subdivision (e) by one thousand dollars ($1,000). This is the amount that each special education local plan area having excess pupils is to receive as a special disabilities adjustment in the 1998–99 fiscal year and that is

to be included in the total amount of funding received by the special education local plan area pursuant to Section 56836.08.

Article 3. Licensed Children's Institutions

56836.16. (a) For the 1980–81 fiscal year and each fiscal year thereafter, the superintendent shall apportion to each district and county superintendent providing programs pursuant to Article 5 (commencing with Section 56155) of Chapter 2 an amount equal to the difference, if any, between (1) the costs of master contracts with nonpublic, nonsectarian schools and agencies to provide special education instruction, designated instruction and services, or both, to pupils in licensed children's institutions, foster family homes, residential medical facilities, and other similar facilities funded under this chapter, and (2) the state and federal income received by the district or county superintendent for providing these programs. The sum of the excess cost, plus any state or federal income for these programs, shall not exceed the cost of master contracts with nonpublic, nonsectarian schools and agencies to provide special education and designated instruction and services for these pupils, as determined by the superintendent.

(b) The cost of master contracts with nonpublic, nonsectarian schools and agencies that a district or county office of education reports under this section shall not include any of the following costs that a district, county office, or special education local plan area may incur:

(1) Administrative or indirect costs for the local education agency.

(2) Direct support costs for the local education agency.

(3) Transportation costs provided either directly, or through a nonpublic, nonsectarian school or agency master contract or individual services agreement for use of services or equipment owned, leased, or contracted, by a district, special education local plan area, or county office for any pupils enrolled in nonpublic, nonsectarian schools or agencies, unless provided directly or subcontracted by that nonpublic, nonsectarian school or agency pursuant to subdivisions (a) and (b) of Section 56366.

(4) Costs for services routinely provided by the district or county office including the following, unless the board grants a waiver under 56101:

(A) School psychologist services other than those described in Sections 56324 and 56363 and included in a master contract and individual services agreement under subdivision (a) of Section 56366.

(B) School nurse services other than those described in Sections 49423.5, 56324, and 56363 and included in a master contract and individual services agreement under subdivision (a) of Section 56366.

(C) Language, speech, and hearing services other than those included in a master contract and individual services agreement under subdivision (a) of Section 56366.

(D) Modified, specialized, or adapted physical education services other than those included in a master contract and individual services agreement under subdivision (a) of Section 56366.

(E) Other services not specified by a pupil's individualized education program or funded by the state on a caseload basis.

(5) Costs for nonspecial education programs or settings, including those provided for individuals with exceptional needs between the ages of birth and five years, inclusive, pursuant to Sections 56431 and 56441.8.

(6) Costs for nonpublic, nonsectarian school or agency placements outside of the state unless the board has granted a waiver pursuant to subdivisions (e) and (f) of Section 56365.

(7) Costs for related nonpublic, nonsectarian school pupil assessments by a school psychologist or school nurse pursuant to Sections 56320 and 56324.

(8) Costs for services that the nonpublic, nonsectarian school or agency is not certified to provide.

(9) Costs for services provided by personnel who do not meet the requirements specified in subdivision (*l*) of Section 56366.1.

(10) Costs for services provided by public school employees.

(d) A nonpublic, nonsectarian school or agency shall not claim and is not entitled to receive reimbursement for attendance unless the site where the pupil is receiving special education or designated instruction and services is certified.

56836.17. (a) The superintendent may reimburse each district and county office of education providing programs pursuant to Article 5 (commencing with Section 56155) of Chapter 2 for assessment and identification costs for pupils in licensed children's institutions, foster family homes, residential medical facilities, and other similar facilities who are placed in state-certified nonpublic, nonsectarian schools.

(b) Actual costs under this section shall not include either administrative or indirect costs, or any proration of support costs.

(c) The total amount reimbursed statewide under this section shall not exceed the amount appropriated for these purposes in any fiscal year. If the superintendent determines that this amount is insufficient to reimburse all claims, the superintendent shall prorate the deficiency among all districts or county offices submitting claims.

56836.18. (a) The superintendent shall establish and maintain an emergency fund for the purpose of providing relief to special education local plan areas when a licensed children's institution, foster family home, residential medical facility, or other similar facility serving individuals with exceptional needs opens or expands in a special education local plan area during the course of the school year which impacts the special education local plan area, or when a pupil is placed in a facility for which no public or state-certified nonpublic program exists within the special education local plan area in which the pupil's individualized education program can be

implemented during the course of the school year and impacts the educational program.

(b) The special education local plan area in which the impaction occurs shall be responsible for submitting a written request to the superintendent for emergency funding. The written request shall contain, at a minimum, all of the following:

(1) Specific information on the new or expanded licensed children's institution, foster family home, residential medical facility, or other similar facility described in subdivision (a), including information on the new unserved or underserved pupils residing in the facility, or specific information relating to the new unserved or underserved pupils residing in those facilities.

(2) The identification of the steps undertaken demonstrating that no public special education program exists within the special education local plan area capable of programmatically meeting the needs of the identified pupils.

(3) A plan from the special education local plan area describing the services to be provided.

(c) The superintendent shall approve, modify, or disapprove the written request for emergency funding within 30 days of the receipt of the written request and shall notify the special education local plan area administrator, in writing, of the final decision.

(d) It is the intent of the Legislature that appropriations necessary to fund these emergency situations shall be included in the Budget Act for each fiscal year.

### Article 4. Nonpublic, Nonsectarian School Contracts

56836.20. (a) The cost of master contracts with nonpublic, nonsectarian schools and agencies that a special education local plan area enters into shall not include any of the following costs that a special education local plan area may incur:

(1) Administrative or indirect costs of the special education local plan area.

(2) Direct support costs for the special education local plan area.

(3) Transportation costs provided either directly, or through a nonpublic, nonsectarian school or agency contract for use of services or equipment owned, leased, or contracted, by a special education local plan area for any pupils enrolled in nonpublic, nonsectarian schools or agencies, unless provided directly or subcontracted by that nonpublic, nonsectarian school or agency pursuant to subdivisions (a) and (b) of Section 56366.

(4) Costs for services routinely provided by the special education local plan area including the following, unless the board grants a waiver under Section 56101:

(A) School psychologist services other than those described in Sections 56324 and 56363 and included in a master contract and individual services agreement under subdivision (a) of Section 56366.

(B) School nurse services other than those described in Sections 49423.5, 56324, and 56363 and included in a master contract and individual services agreement under subdivision (a) of Section 56366.

(C) Language, speech, and hearing services other than those included in a master contract and individual services agreement under subdivision (a) of Section 56366.

(D) Modified, specialized, or adapted physical education services other than those included in a master contract and individual services agreement under subdivision (a) of Section 56366.

(E) Other services not specified by a pupil's individualized education program or funded by the state on a caseload basis.

(5) Costs for nonspecial education programs or settings, including those provided for individuals with exceptional needs between the ages of birth and five years, inclusive, pursuant to Sections 56431 and 56441.8.

(6) Costs for nonpublic, nonsectarian school or agency placements outside of the state unless the board has granted a waiver pursuant to subdivisions (e) and (f) of Section 56365.

(7) Costs for related nonpublic, nonsectarian school pupil assessments by a school psychologist or school nurse pursuant to Sections 56320 and 56324.

(8) Costs for services that the nonpublic, nonsectarian school or agency is not certified to provide.

(9) Costs for services provided by personnel who do not meet the requirements specified in subdivision (*l*) of Section 56366.1.

(10) Costs for services provided by public school employees.

(b) A nonpublic, nonsectarian school or agency shall not claim and is not entitled to receive reimbursement for attendance unless the site where the pupil is receiving special education or designated instruction and services is certified.

56836.21. (a) The State Department of Education shall administer an extraordinary cost pool to protect special education local plan areas from the extraordinary costs associated with single placements in nonpublic, nonsectarian schools. Funds shall be appropriated for this purpose in the annual Budget Act. Special education local plan areas shall be eligible for reimbursement from this pool in accordance with this section.

(b) The threshold amount for claims under this section shall be the lesser of the following:

(1) One percent of the allocation calculated pursuant to Section 56836.08 for the special education local plan area for the current fiscal year for any special education local plan area that meets the criteria in subdivision (a) of Section 56212.

(2) The State Department of Education shall calculate the average cost of a nonpublic, nonsectarian school placement in the 1997–98 fiscal year. This amount shall be multiplied by 2.5, then by one plus the inflation factor computed pursuant to Section 42238.1, to obtain the alternative threshold amount for claims in the 1998–99

fiscal year. In subsequent fiscal years, the alternative threshold amount shall be the alternative threshold amount for the prior fiscal year multiplied by one plus the inflation factor computed pursuant to Section 42238.1.

(c) Special education local plan areas shall be eligible to submit claims for costs of any nonpublic, nonsectarian school placements exceeding the threshold amount on forms developed by the State Department of Education. All claims for a fiscal year shall be submitted by November 30 following the close of the fiscal year. If the total amount claimed by special education local plan areas exceeds the amount appropriated, the claims shall be prorated.

### Article 5. Low Incidence Funding

56836.22. (a) Commencing with the 1985–86 fiscal year, and for each fiscal year thereafter, funds to support specialized books, materials, and equipment as required under the individualized education program for each pupil with low incidence disabilities, as defined in Section 56026.5, shall be determined by dividing the total number of pupils with low incidence disabilities in the state, as reported on December 1 of the prior fiscal year, into the annual appropriation provided for this purpose in the Budget Act.

(b) The per-pupil entitlement determined pursuant to subdivision (a) shall be multiplied by the number of pupils with low incidence disabilities in each special education local plan area to determine the total funds available for each local plan.

(c) The superintendent shall apportion the amount determined pursuant to subdivision (b) to the special education local plan area for purposes of purchasing and coordinating the use of specialized books, materials, and equipment.

(d) As a condition of receiving these funds, the special education local plan area shall ensure that the appropriate books, materials, and equipment are purchased, that the use of the equipment is coordinated as necessary, and that the books, materials, and equipment are reassigned to local educational agencies within the special education local plan area once the agency that originally received the books, materials, and equipment no longer needs them.

(e) It is the intent of the Legislature that special education local plan areas share unused specialized books, materials, and equipment with neighboring special education local plan areas.

### Article 6. Program Specialists and Administration of Regionalized Operations and Services

56836.23. Funds for regionalized operations and services and the direct instructional support of program specialists shall be apportioned to the special education local plan areas. As a condition to receiving those funds, the special education local plan area shall

assure that all functions listed below are performed in accordance with the description set forth in its local plan adopted pursuant to subdivision (c) of Section 56205:

(a) Coordination of the special education local plan area and the implementation of the local plan.

(b) Coordinated system of identification and assessment.

(c) Coordinated system of procedural safeguards.

(d) Coordinated system of staff development and parent education.

(e) Coordinated system of curriculum development and alignment with the core curriculum.

(f) Coordinated system of internal program review, evaluation of the effectiveness of the local plan, and implementation of a local plan accountability mechanism.

(g) Coordinated system of data collection and management.

(h) Coordination of interagency agreements.

(i) Coordination of services to medical facilities.

(j) Coordination of services to licensed children's institutions and foster family homes.

(k) Preparation and transmission of required special education local plan area reports.

(*l*) Fiscal and logistical support of the community advisory committee.

(m) Coordination of transportation services for individuals with exceptional needs.

(n) Coordination of career and vocational education and transition services.

(o) Assurance of full educational opportunity.

(p) Fiscal administration and the allocation of state and federal funds pursuant to Section 56836.01.

(q) Direct instructional program support that may be provided by program specialists in accordance with Section 56368.

56836.24. Commencing with the 1998–99 fiscal year and each year thereafter, the superintendent shall make the following computations to determine the amount of funding for the purposes specified in Section 56836.23 to apportion to each special education local plan area for the fiscal year in which the computation is made:

(a) For the 1998–99 fiscal year the superintendent shall make the following computations:

(1) Multiply the total amount of state General Fund money allocated to the special education local plan areas in the 1997–98 fiscal year, for the purposes of Article 9 (commencing with Section 56780) of Chapter 7, as that chapter existed on December 31, 1998, by one plus the inflation factor computed pursuant to subdivision (b) of Section 42238.1 for the 1998–99 fiscal year.

(2) Divide the amount calculated in paragraph (1) by the units of average daily attendance reported for the special education local plan area for the 1997–98 fiscal year.

(3) To determine the amount to be allocated to each special education local plan area in the 1998–99 fiscal year, the superintendent shall multiply the amount computed in paragraph (2) by the number of units of average daily attendance reported for the special education local plan area for the 1998–99 fiscal year, except that a special education local plan area designated as a necessary small special education local plan area in accordance with Section 56212 and reporting fewer than 15,000 units of average daily attendance for the 1998–99 fiscal year shall be deemed to have 15,000 units of average daily attendance, and no special education local plan area shall receive less than it received in the 1997–98 fiscal year.

(b) For the 1999–2000 fiscal year and each fiscal year thereafter, the superintendent shall make the following calculations:

(1) Multiply the amount determined in paragraph (2) of subdivision (a) by one plus the inflation factor computed pursuant to subdivision (b) of Section 42238.1 for the current fiscal year.

(2) Multiply the amount determined in paragraph (1) by the number of units of average daily attendance reported for the special education local plan area for the current fiscal year, except that a special education local plan area designated as a necessary small special education local plan area in accordance with Section 56212 and reporting fewer than 15,000 units of average daily attendance for the current fiscal year shall be deemed to have 15,000 units of average daily attendance.

56836.25. Funds received pursuant to this article shall be expended for the purposes specified in Section 56836.23.

SEC. 66. (a) The Legislature finds and declares as follows:

(1) The individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), as amended by the Individuals with Disabilities Education Act Amendments of 1997 (105 P.L. 17), effective in part upon enactment and in part as further specified in the act, provides as follows:

"Sec. 612. STATE ELIGIBILITY.

(a) In general.--A State is eligible for assistance under this part for a fiscal year if the State demonstrates to the satisfaction of the Secretary that the State has in effect policies and procedures to ensure that it meets each of the following conditions:

[Language Omitted]

(5) LEAST RESTRICTIVE ENVIRONMENT-

(A) IN GENERAL-To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are not disabled, and special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

(B) ADDITIONAL REQUIREMENT-

(i) IN GENERAL-If the State uses a funding mechanism by which the State distributes State funds on the basis of the type of setting in which a child is served, the funding mechanism does not result in placements that violate the requirements of subparagraph (A).

(ii) ASSURANCE-If the State does not have policies and procedures to ensure compliance with clause (i), the State shall provide the Secretary an assurance that it will revise the funding mechanism as soon as feasible to ensure that such mechanism does not result in such placements.

[Language Omitted]"

(16) PERFORMANCE GOALS AND INDICATORS—The State—

(A) has established goals for the performance of children with disabilities in the State that—

(i) will promote the purposes of this Act, as stated in section 601(d); and

(ii) are consistent, to the maximum extent appropriate, with other goals and standards for children established by the State;

(B) has established performance indicators the State will use to assess progress toward achieving those goals that, at a minimum, address the performance of children with disabilities on assessments, drop-out rates, and graduation rates;

(C) will, every two years, report to the Secretary and the public on the progress of the State, and of children with disabilities in the State, toward meeting the goals established under subparagraph (A); and

(D) based on its assessment of that progress, will revise its State improvement plan under subpart 1 of part D as may be needed to improve its performance, if the State receives assistance under that subpart.

(17) PARTICIPATION IN ASSESSMENTS—

(A) IN GENERAL-Children with disabilities are included in general State and district-wide assessment programs, with appropriate accommodations, where necessary. As appropriate, the State or local education agency—

(i) develops guidelines for the participation of children with disabilities in alternate assessments for those children who cannot participate in State and district-wide assessment programs; and

(ii) develops and, beginning not later than July 1, 2000, conducts those alternate assessments.

(B) REPORTS-The State educational agency makes available to the public, and reports to the public with the same frequency and in the same detail as it reports on the assessment of nondisabled children, the following:

(i) The number of children with disabilities participating in regular assessments.

(ii) The number of those children participating in alternate assessments.

(iii) (I) The performance of those children on regular assessments (beginning not later than July 1, 1998) and on alternate assessments (not later than July 1, 2000), if doing so would be statistically sound and would not result in the disclosure of performance results identifiable to individual children.

(II) Data relating to the performance of children described under subclause (I) shall be disaggregated—

(aa) for assessments conducted after July 1, 1998; and

(bb) for assessments conducted before July 1, 1998, if the State is required to disaggregate such data prior to July 1, 1998.

[Language Omitted]"

"Sec. 616. WITHHOLDING AND JUDICIAL REVIEW

(a) WITHHOLDING OF PAYMENTS-

(1) IN GENERAL-Whenever the Secretary, after reasonable notice and opportunity for hearing to the State educational agency involved (and to any local educational agency or State agency affected by any failure described in subparagraph (B)), finds—

(A) that there has been a failure by the State to comply substantially with any provision of this part; or

(B) that there is a failure to comply with any condition of a local educational agency's or State agency's eligibility under this part, including the terms of any agreement to achieve compliance with this part within the timelines specified in the agreement; the Secretary shall, after notifying the State educational agency, withhold, in whole or in part, any further payments to the State under this part, or refer the matter for appropriate enforcement action, which may include referral to the Department of Justice.

(2) NATURE OF WITHHOLDING-If the Secretary withholds further payments under paragraph (1), the Secretary may determine that such withholding will be limited to programs or projects, or portions thereof affected by the failure, or that the State educational agency shall not make further payments under this part to specified local educational agencies or State agencies affected by the failure. Until the Secretary is satisfied that there if no longer any failure to comply with the provisions of this part, as specified in subparagraph (A) or (B) of paragraph (1), payments to the State under this part shall be withheld in whole or in part, or payments by the State educational agency under this part shall be limited to local educational agencies and State agencies whose actions did not cause or were not involved in the failure, as the case may be. Any State educational agency, State agency, or local educational agency that has received notice under paragraph (1) shall, by means of a public notice, take such measures as may be necessary to bring the pendency of an action pursuant to this subsection to the attention of the public within the jurisdiction of such agency."

[Language Omitted]"

(2) State and local education agencies are required to abide by federal laws that are in effect.

(b) This section shall remain in effect only if the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), as amended by the Individuals with Disabilities Education Act Amendments of 1997 (105 P.L. 17), is not further amended or repealed, and this section is repealed upon any further amendment or repeal of the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), as amended by the Individuals with Disabilities Education Act Amendments of 1997 (105 P.L. 17).

(c) It is the intent of the Legislature that this section be reenacted to incorporate any changes to the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), as amended by the Individuals with Disabilities Education Act Amendments of 1997 (105 P.L. 17), as soon as possible after the amendment of the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), as amended by the Individuals with Disabilities Education Act Amendments of 1997 (105 P.L. 17).

SEC. 67. (a) The Office of the Legislative Analyst, in conjunction with the Department of Finance and the State Department of Education, shall conduct a study to gather, analyze, and report on data that would indicate the extent to which the incidence of disabilities, that are medically defined or severe and significantly above-average in cost, or both, are evenly or unevenly distributed among the population of special education local plan areas. The Office of the Legislative Analyst shall contract for both the development of the request for proposal for the study and for the study itself. The Office of the Legislative Analyst, the Department of Finance, and the State Department of Education, shall submit a report of the contractor's findings and recommendations no later than June 1, 1998, to the Governor and the appropriate policy and fiscal committees of the California State Senate and the California State Assembly. The report shall include, if feasible and appropriate, a method to adjust the funding formula contained in Chapter 7.2 (commencing with Section 56836) of Part 30 of the Education Code in order to recognize the distribution of disabilities that are medically defined or severe and significantly above-average in cost, or both, among the special education local plan areas. The report shall use the definition of severe orthopedic impairment developed by the State Department of Education pursuant to Section 70.

(b) There is hereby appropriated to the State Department of Education for transfer to the Office of the Legislative Analyst for the 1997–98 fiscal year the sum of two hundred thousand dollars ($200,000) from supplemental federal special education grant funds for Part B of the Individuals with Disabilities Education Act. The funds are only to be used for the purpose of contracting for the request for proposal and study in subdivisions (a) and (b) and for the purpose of paying any necessary overhead associated with the supervision of the independent contracts. Provision 1 of Item 6110-161-0890 of the 1997–98 Budget Act on funds received over the

amount of federal funds budgeted shall only apply to the balance of supplemental federal special education grant funds for Part B of the Individuals with Disabilities Education Act remaining after the appropriation made by this subdivision is deducted from that supplemental funding.

(c) Of the amount needed to fully fund the equalization formula in Article 2 (commencing with Section 56836.06) of Chapter 7.2 of Part 30 of the Education Code as it read on January 1, 1998, fifteen million dollars ($15,000,000) shall be available for an adjustment to that formula pursuant to the results of the study required pursuant to Section 67. The amount actually required to fully fund the adjustment enacted by an act of the Legislature subsequent to the results of the study shall be funded in whole in the 1998–99 fiscal year if eighty million dollars ($80,000,000), or more, in federal funds becomes available, or proportionately less if less federal funds are available, during years of equalization carried out pursuant to Article 2 (commencing with Section 56836.06) of Chapter 7.2 of Part 30 of the Education Code. At the time an adjustment is enacted, the formula in Article 2 (commencing with Section 56836.06) of Chapter 7.2 of Part 30 of the Education Code shall also be amended in an act other than the Budget Act to reduce the full funding level by the total cost of the adjustment which may be more or less than fifteen million dollars ($15,000,000) such that the total cost of the formula in Article 2 (commencing with Section 56836.06) of Chapter 7.2 of Part 30 of the Education Code plus the adjustment shall equal the cost of the equalization formula as it existed before enacting the adjustment. The adjustment shall be enacted to amend or replace the formula established in Article 2.5 (commencing with Section 56836.155) of Chapter 7.2 of Part 30 of the Education Code and shall not be enacted in addition to the formula established in that article.

SEC. 68. (a) The Office of the Legislative Analyst, the Department of Finance, and the State Department of Education shall conduct a study, in consultation with the other interested parties, of nonpublic school and nonpublic agency costs as compared to the cost of public school placements, the cause of continuing increases in nonpublic school and agency costs, and recommendations for cost containment. In carrying out this study the Office of the Legislative Analyst shall examine the impact on nonpublic school and nonpublic agency costs of children residing in out-of-home placements, and of mediation and due process hearings. The Office of the Legislative Analyst may contract with an independent party to conduct this study on behalf of the Office of the Legislative Analyst. The Office of the Legislative Analyst shall submit a final report of its findings and recommendations on or before May 1, 1998, to the appropriate policy and fiscal committees of the Senate and the Assembly of the California Legislature.

(b) There is hereby appropriated to the State Department of Education for transfer to the Office of the Legislative Analyst for the

1997–98 fiscal year the sum of one hundred thousand dollars ($100,000) from supplemental federal special education grant funds for Part B of the Individuals with Disabilities Education Act. The funds are only to be used for the purpose of conducting the study in subdivision (a). Provision 1 of Item 6110-161-0890 of the 1997–98 Budget Act on funds received over the amount of federal funds budgeted shall only apply to the balance of supplemental federal special education grant funds for Part B of the Individuals with Disabilities Education Act remaining after the appropriation made by this subdivision is deducted from that supplemental funding.

SEC. 69. (a) The State Department of Education shall convene a working group to develop recommendations for improving the compliance of state and local education agencies with state and federal special education laws and regulations. These recommendations shall define how the State Department of Education and local education agencies will assure and maintain compliance of special education laws and regulations in providing services to individuals with exceptional needs. Final recommendations shall include, but not be limited to, state compliance training and technical assistance, state review and monitoring of local compliance, the state complaint process and timetable, state corrective action and follow up, and local and state agency sanctions for noncompliance.

(b) The working group shall include members representing the State Board of Education, the State Department of Education, county offices of education, school districts, special education local plan areas, the Special Education Advisory Commission, the State Department of Education administrative hearing office, the federal Office of Civil Rights or Office for Special Education Programs, organizations advocating for, or consisting of, individuals with exceptional needs and their families, parents of individuals with exceptional needs, and organizations representing school teachers and other support services staff serving individuals with exceptional needs. It is the intent of the Legislature that the working group convened by the State Department of Education shall include a balance of members representing state and local education agencies and employees, and members representing individuals with exceptional needs and their families.

(c) The State Department of Education shall submit a report of the working group's recommendations no later than September 1, 1998, to the Governor and the appropriate policy and fiscal committees of the Senate and the Assembly of the California Legislature.

SEC. 70. On or before January 1, 1998, the State Department of Education shall develop a definition of severe orthopedic impairment for use in the application and distribution of low-incidence funding in the 1998–99 fiscal year.

SEC. 71. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act provides for offsetting savings to local agencies or school districts that result in no net costs to the local agencies or school districts, within the meaning of Section 17556 of the Government Code.

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

SEC. 72. Funding for this bill, except as provided in Sections 67 and 68 of this bill, shall be contingent upon the enactment of an appropriation in the annual Budget Act.

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## CHAPTER 855

An act to amend Sections 2550.3 and 46010 of, to amend and renumber Section 46010.5 of, to add Section 42238.7 to, to repeal Section 46015 of, and to repeal and add Sections 2550.4, 42238.8, and 46010.2 of, the Education Code, relating to school finance.

[Approved by Governor October 10, 1997. Filed with Secretary of State October 10, 1997.]

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

SECTION 1. Section 2550.3 of the Education Code is amended to read:

2550.3. Each county superintendent of schools, as a condition of apportionment, shall report separately to the Superintendent of Public Instruction, not later than September 1, 1997, what portions of attendance in the schools and classes maintained by the county superintendent that was reported for the 1996–97 school year pursuant to Section 41601 consisted of absences excused pursuant to subdivision (b) of Section 46010.2 and to Section 46015, as those sections read on July 1, 1996.

Each report shall be prepared in accordance with instructions and on forms prescribed by the Superintendent of Public Instruction.

SEC. 2. Section 2550.4 of the Education Code is repealed.

SEC. 3. Section 2550.4 is added to the Education Code, to read:

2550.4. (a) Effective July 1, 1998, the Superintendent of Public Instruction shall make one-time adjustments to the revenue limits per unit of average daily attendance of each county office of education for those programs which, prior to July 1, 1998, were authorized in Section 46010 as it read on July 1, 1996, to include certain absences in reports of attendance made pursuant to Section 41601. Those one-time adjustments shall apply for the 1998–99 fiscal year, and for each fiscal year thereafter, but not for any year prior to

1998–99, and shall be accomplished by revision of the prior fiscal year revenue limits per unit of average daily attendance calculated for those programs, as follows:

(1) Determine revised revenue limits per unit of average daily attendance for the 1996–97 fiscal year for each of the programs. Each revised revenue limit per unit of average daily attendance shall equal funding received for the program for the 1996–97 fiscal year that is directly attributable to the original revenue limit per unit of average daily attendance, divided by the attendance, excluding absences excused pursuant to subdivision (b) of Section 46010 as it read on July 1, 1996, reported pursuant to Section 41601 for that program in the 1996–97 fiscal year.

(2) For the 1996–97 and 1997–98 fiscal years, recalculate the revenue limits per unit of average daily attendance for each program to reflect the revision in the revenue limits per unit of average daily attendance determined pursuant to paragraph (1).

(3) The calculation made pursuant to paragraph (2) shall not be used for apportionment purposes for either of those years or for adjustments for those years.

(b) If any county superintendent of schools demonstrates to the satisfaction of the Superintendent of Public Instruction that, because of extraordinary circumstances beyond the control of the county office of education, the amount of absences excused in one or more county office programs in fiscal year 1996–97 pursuant to subdivision (b) of Section 46010 as it read on July 1, 1996, was significantly lower than it would ordinarily have been in comparison to the amount of actual attendance in fiscal year 1996–97, the Superintendent of Public Instruction shall make a compensating adjustment, consistent with the provisions of Section 2 of the Education Code, in the calculation set forth in this section.

SEC. 4. Section 42238.7 is added to the Education Code, to read:

42238.7. The governing board of each school district, as a condition of apportionment, shall report to the Superintendent of Public Instruction, not later than September 1, 1997, the portion of the attendance in the schools and classes maintained by the district that was reported for the 1996–97 school year pursuant to Section 41601 that consisted of absences excused pursuant to subdivision (b) of Section 46010.2 and to Section 46015, as those sections read on July 1, 1996.

SEC. 5. Section 42238.8 of the Education Code is repealed.

SEC. 6. Section 42238.8 is added to the Education Code, to read:

42238.8. (a) Effective July 1, 1998, the Superintendent of Public Instruction shall make one-time adjustments to the revenue limits per unit of average daily attendance of each school district for those programs which, prior to July 1, 1998, were authorized in Section 46010 as it read on July 1, 1996, to include certain absences in reports of attendance made pursuant to Section 41601. Those one-time adjustments shall apply for the 1998–99 fiscal year, and for each fiscal

year thereafter, but not for any year prior to 1998–99, and shall be accomplished by revision of the prior fiscal year revenue limits per unit of average daily attendance calculated for those programs, as follows:

(1) Determine revised revenue limits per unit of average daily attendance for the 1996–97 fiscal year for each of the programs. Each revised revenue limit per unit of average daily attendance shall equal funding received for the program for the 1996–97 fiscal year that is directly attributable to the original revenue limit per unit of average daily attendance, divided by the attendance, excluding absences excused pursuant to subdivision (b) of Section 46010 as it read on July 1, 1996, reported pursuant to Section 41601 for that program in the 1996–97 fiscal year.

(2) For the 1996–97 and 1997–98 fiscal years, recalculate the revenue limits per unit of average daily attendance for each program to reflect the revision in the revenue limits per unit of average daily attendance determined pursuant to paragraph (1).

(3) The calculation made pursuant to paragraph (2) shall not be used for apportionment purposes for either of those years or for adjustments for those years.

(b) If the governing board of any school district demonstrates to the satisfaction of the Superintendent of Public Instruction that, because of extraordinary circumstances beyond the control of the school district, the amount of absences excused in one or more district programs in fiscal year 1996–97 pursuant to subdivision (b) of Section 46010 as it read on July 1, 1996, was significantly lower than it would ordinarily have been in comparison to the amount of actual attendance in fiscal year 1996–97, the Superintendent of Public Instruction shall make a compensating adjustment, consistent with the provisions of Section 2 of the Education Code, in the calculation set forth in this section.

SEC. 7. Section 46010 of the Education Code is amended to read:

46010. (a) The total days of attendance of a pupil upon the schools and classes maintained by a school district, or schools or classes maintained by the county superintendent of schools during the fiscal year shall be the number of days school was actually taught for not less than the minimum schooldays during the fiscal year less the sum of his or her absences.

(b) The absence of a pupil from school or class shall be excused for the purposes of Section 48260 if that absence was:

(1) Due to his or her illness.

(2) Due to quarantine under the direction of a county or city health officer.

(3) For the purpose of having medical, dental, optometrical, or chiropractic services rendered.

(4) For the purpose of attending the funeral services of a member of his or her immediate family, so long as the absence is not more than

one day if the service is conducted in California and not more than three days if the service is conducted outside California.

(5) For the purpose of jury duty in the manner provided for by law.

"Immediate family," as used in this subdivision, has the same meaning as that set forth in Section 45194 except that references therein to "employee" shall be deemed to be references to "pupil."

(c) For purposes of reporting pupil attendance for any purpose to an agency of the federal government, the phrase "total days of attendance of a pupil" shall be defined only as set forth in subdivision (a).

SEC. 8. Section 46010.2 of the Education Code is repealed.

SEC. 9. Section 46010.2 is added to the Education Code, to read:

46010.2. For the purpose of determining "changes in enrollment" pursuant to subdivision (b) of Section 8 of Article XVI of the California Constitution, as required by subdivision (d) of Section 41204, the total days of attendance by pupils in schools and classes maintained by a school district shall, in the 1997–98 fiscal year, be separately determined both as if subdivision (b) of Section 46010, as it read in the 1997–98 fiscal year, did and did not apply. The days of attendance figure resulting from the application of subdivision (b) of Section 46010 shall be used in calculating average daily attendance for comparison with average daily attendance in the 1996–97 fiscal year. The days of attendance figure determined without applying subdivision (b) of Section 46010 shall be used in calculating average daily attendance for comparison with average daily attendance in the 1998–99 fiscal year.

SEC. 10. Section 46010.5 of the Education Code is amended and renumbered to read:

48216. (a) The county office of education or the governing board of the school district of attendance shall exclude any pupil who has not been immunized properly pursuant to Chapter 1 (commencing with Section 120325) of Part 2 of Division 105 of the Health and Safety Code.

(b) The governing board of the district shall notify the parent or guardian of the pupil that they have two weeks to supply evidence either that the pupil has been properly immunized, or that the pupil is exempted from the immunization requirement pursuant to Section 120365 or 120370 of the Health and Safety Code.

(c) The governing board of the district, in the notice, shall refer the parent or guardian of the pupil to the pupil's usual source of medical care to obtain the immunization, or if no usual source exists, either refer the parent or guardian to the county health department, or notify the parent or guardian that the immunizations will be administered at a school of the district.

SEC. 11. Section 46015 of the Education Code is repealed.

SEC. 12. Sections 7, 8, 9, 10, and 11 of this act shall become operative on July 1, 1998.

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## CHAPTER 856

An act to repeal, add, and repeal Article 13 (commencing with Section 18841) of Chapter 3 of Part 10.2 of Division 2 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor October 10, 1997. Filed with Secretary of State October 10, 1997.]

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

SECTION 1. Article 13 (commencing with Section 18841) of Chapter 3 of Part 10.2 of Division 2 of the Revenue and Taxation Code is repealed.

SEC. 2. Article 13 (commencing with Section 18841) is added to Chapter 3 of Part 10.2 of Division 2 of the Revenue and Taxation Code, to read:

### Article 13. Designations to the California Military Museum Fund

18841. (a) Any individual may designate on the tax return that a contribution in excess of the tax liability, if any, be made to the California Military Museum Fund, which is established by Section 18842. That designation is to be used as a voluntary checkoff on the tax return.

(b) The contributions shall be in full dollar amounts and may be made by the signatory on an individual return or individually by each signatory on a joint return.

(c) A designation shall be made for any taxable year on the initial return for that taxable year, and once made shall be irrevocable. In the event that payments and credits reported on the return, together with any other credits associated with the taxpayer's account, do not exceed the taxpayer's liability, the return shall be treated as though no designation has been made. If the amount available for designation is insufficient to satisfy the total amount designated, the amount designated shall be adjusted to correspond to the amount available for designation. In the event that no designee is specified, the contribution shall be transferred to the General Fund, after reimbursement of the direct actual costs of the Franchise Tax Board for the collection and the administration of funds under this article.

(d) In the event a taxpayer designates a contribution to more than one account or fund listed on the tax return, and the amount available for designation is insufficient to satisfy the total amount designated,

the contribution shall be allocated among the designees on a pro rata basis.

(e) The Franchise Tax Board shall revise the forms of the return to include a space labeled the "California Military Museum Fund" to allow for the designation permitted. The forms shall also include in the instructions information that the contribution may be in the amount of one dollar ($1) or more and that the contribution shall be used to operate the California Military Museum. It is the intent of the Legislature that tax returns for taxable years during which this article remains in effect shall include a space for the California Military Museum Fund.

(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).

18842. There is in the State Treasury the California Military Museum Fund to receive contributions made pursuant to Section 18841. 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 18841 to be transferred to the California Military Museum Fund. The Controller shall transfer from the Personal Income Tax Fund to the California Military Museum Fund an amount not in excess of the sum of the amounts designated by individuals pursuant to Section 18841 for payment into that fund.

18843. All money transferred to the California Military Museum Fund, upon appropriation by the Legislature, shall be allocated as follows:

(a) To the Franchise Tax Board and the Controller for reimbursement of all costs incurred by the Franchise Tax Board and the Controller in connection with their duties under this article.

(b) To the California Military Museum for the operation of the museum as provided by Section 179 of the Military and Veterans Code.

18844. (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 1998, 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 the 1999 calendar year, 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.

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## CHAPTER 857

An act to add Chapter 2.1 (commencing with Section 68650) to Title 8 of the Government Code, relating to courts.

[Approved by Governor October 10, 1997. Filed with Secretary of State October 10, 1997.]

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

SECTION 1. Chapter 2.1 (commencing with Section 68650) is added to Title 8 of the Government Code, to read:

### CHAPTER 2.1. TRIAL COURT PERSONNEL

68650. The Legislature finds that the Judicial Council has adopted Rules 2201 to 2210, inclusive, of the California Rules of Court, which create a mechanism for setting the terms and conditions of employment between a trial court or its representatives and the personnel of the trial court or the representatives thereof. Notwithstanding any other provision of law, these rules shall be given full force and effect, and shall be maintained as adopted by the Judicial Council on April 23, 1997.

68651. Nothing in this chapter shall prohibit the superior court or the municipal court from adopting rules and procedures on the implementation of its labor relations with a recognized employee organization, provided the rules and procedures are not contrary to, or inconsistent with, the obligations and duties of the courts as

provided in this chapter and Rules 2201 to 2210, inclusive, of the California Rules of Court.

68652. Where the language of Rules 2201 to 2210, inclusive, of the California Rules of Court is the same or substantially the same as that contained in Sections 3500 to 3510, inclusive, it shall be interpreted and applied in accordance with judicial interpretations of the same language.

68653. This chapter and Rules 2201 to 2210, inclusive, of the California Rules of Court shall not impair the rights and remedies granted to court employees under Chapter 10 (commencing with Section 3500) of Division 4 of Title 1.

68654. Except as required pursuant to Section 5 of Article VI of the California Constitution, any agreements reached pursuant to negotiations held pursuant to Rules 2201 to 2210, inclusive, of the California Rules of Court are binding on the parties and may be enforced pursuant to Section 1085 or 1103 of the Code of Civil Procedure. In the event that a court, a court employee, or an employee organization believes there has been a violation of this chapter or Rules 2201 to 2210, inclusive, of the California Rules of Court, that party may petition the court of appeal for relief.

68655. It is the purpose of this chapter to effectuate the establishment within the judicial branch of an equitable and effective method of resolving potential conflicts in matters affecting the interests of the trial courts and their personnel, and meeting the ongoing needs of the trial courts, their personnel, and the harmonious operations thereof.

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## CHAPTER 858

An act to add Section 69620 to the Government Code, relating to judges.

[Approved by Governor October 10, 1997. Filed with Secretary of State October 10, 1997.]

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

SECTION 1. Section 69620 is added to the Government Code, to read:

69620. (a) In addition to other judges authorized by law, there are 40 additional judges of the superior and municipal courts, to be allocated to the superior courts and municipal courts of the counties as provided by subdivision (b).

(b) Judicial positions created by this section shall be allocated among the superior courts and municipal courts of the counties in accordance with the priorities in the report on total statewide judgeship needs submitted to the Legislature by the Judicial Council.

That report shall be submitted to the Legislature no later than May 1, 1998, and shall establish priorities for the need for additional trial court judges in the state based on the consideration of factors such as workload, coordination, and unification to the extent permitted by law.

(c) Upon submission of the report required by subdivision (b) and the appropriation of funds during the 1997–98 Regular Session to pay for a judicial position for the 1998–99 fiscal year, the Governor may appoint a judge to each of the positions for which funds have been appropriated.

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.

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## CHAPTER 859

An act relating to trial court funding, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 10, 1997. Filed with Secretary of State October 10, 1997.]

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

SECTION 1. The sum of one hundred fifty-seven million five hundred thousand dollars ($157,500,000) is hereby transferred from the General Fund to the Trial Court Trust Fund, for payment to Item 0450-101-0932 of Section 2.00 of the Budget Act of 1997 (Ch. 282, Stats. 1997) in augmentation of the transfer made in Item 0450-111-0001 of that section.

SEC. 2. Section 1 shall become operative only if the Director of Finance determines that legislation has been enacted, on or before December 31, 1997, that would substantially restructure trial court funding.

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# CHAPTER 860

An act to add Sections 42249.6 and 42249.65 to the Education Code, relating to education.

[Approved by Governor October 10, 1997. Filed with Secretary of State October 10, 1997.]

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

SECTION 1. Section 42249.6 is added to the Education Code, to read:

42249.6. (a) Any and all of the school districts listed in subdivision (c) may be funded, for a voluntary desegregation program, of the kind discussed in subparagraph (D) of paragraph (3) of subdivision (b) of Section 42249.

(b) (1) The district shall submit to the Department of Finance for approval an estimated claim no later than November 30 of the first fiscal year in which funding for its voluntary desegregation program is claimed and a report, which shall include all of the following:

(A) Certification that the desegregation plan is being implemented and an itemization of program expenditures to date.

(B) Certification that the district has met the match requirement.

(2) The Department of Finance shall review any estimated claim submitted pursuant to this section and include its estimate of approvable claims in budget estimates for both the current and next budget year. It is the intent of the Legislature that funding for the first year of program operation be provided as soon as practical following the first year of operation, and that funding for the second and subsequent years of program operation be included in the Budget Act for the appropriate year.

(c) This section shall be applicable only to the Grant Union High School District, the Lynwood Unified School District, and the Sausalito Elementary School District.

(d) This section shall become operative only if an appropriation is made for its purpose in the annual Budget Act or in another measure.

SEC. 2. Section 42249.65 is added to the Education Code, to read:

42249.65. (a) Any and all of the school districts listed in subdivision (b) may be funded, for a voluntary desegregation program of the kind discussed in subparagraph (D) of paragraph (3) of subdivision (b) of Section 42249.

(b) This section shall be applicable only to the Allensworth-Richgrove Districts Collaborative, the Carlsbad Unified School District, and the San Dieguito Union High School District.

(c) This section shall become operative only if an appropriation is made for its purpose in the annual Budget Act or in another measure.

SEC. 3. The Legislature finds and declares that, due to the unique fiscal circumstances of the Grant Union High School District, the Sausalito Elementary School District, the Allensworth-Richgrove Districts Collaborative, the Carlsbad Unified School District, the Lynwood Unified School District, and the San Dieguito Union High School District 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.

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## CHAPTER 861

An act to amend Section 42249 of, and to add Section 42249.8 to, the Education Code, relating to education.

[Approved by Governor October 10, 1997. Filed with Secretary of State October 10, 1997.]

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

SECTION 1. Section 42249 of the Education Code is amended to read:

42249. (a) Any school district, or group of school districts in collaboration, that maintains a voluntary program designed to remedy the harmful effects of racial segregation may, if the program meets the criteria of this section, present a claim for reimbursement for the costs of the program to the Commission on State Mandates for review. The commission may, for claims approved under this section, include the claims in a subsequent claims bill.

(b) Any claim presented to the Commission on State Mandates pursuant to subdivision (a) shall be subject to the following restrictions:

(1) A district shall not be reimbursed for a higher percentage of the total costs, as defined in paragraph (2), of the program than the average percentage reimbursement of total program costs received by eligible school districts from the state pursuant to Section 42243.6 for the 1981-82 fiscal year.

(2) The total costs of voluntary programs eligible for reimbursement pursuant to this section shall not exceed 1980-81 fiscal year funding levels.

(3) Programs eligible for reimbursement pursuant to this section shall be limited to the following:

(A) Voluntary pupil assignment or reassignment.

(B) Magnet schools or magnet centers.

(C) Transportation of pupils to alternative schools or programs of their choice.

(D) Racially isolated minority school staff development, instructional materials and supplies, and other programs to combat

the harmful effects of racially isolated minority schools. Racially isolated minority school programs shall include, but are not limited to, all of the following:

(i) New and creative parent training and involvement programs.

(ii) Instructional programs to increase achievement in language arts, mathematics, and science.

(iii) Reduction in classroom size (pupil/teacher ratio).

(iv) Necessary support staff.

(v) An evaluation component to determine the effectiveness of the racially isolated minority school programs.

(c) It is the intent of the Legislature that there shall be no reduction of funding for racially isolated minority schools.

SEC. 2. Section 42249.8 is added to the Education Code, to read:

42249.8. (a) Commencing with the 1996–97 fiscal year and each fiscal year thereafter, the East San Jose group of school districts in collaboration may be funded for its voluntary desegregation program, of the kind discussed in subparagraph (D) of paragraph (3) of subdivision (b) of Section 42249, in the Budget Act for the fiscal year that is the first fiscal year in which the voluntary desegregation program is in operation if the district meets the following requirements:

(1) The collaboration has commenced operation of a voluntary desegregation program, of the kind described in subparagraph (D) of paragraph (3) of subdivision (b) of Section 42249, on the first day of school in the first fiscal year, but no sooner than the 1996-97 fiscal year, in which funding for its voluntary desegregation program is claimed.

(2) The voluntary desegregation program, of the kind discussed in subparagraph (D) of paragraph (3) of subdivision (b) of Section 42249, is approved by the Controller.

(b) (1) The collaboration shall submit to the Department of Finance for approval an estimated claim no later than November 30 of the first fiscal year in which funding for its voluntary desegregation program is claimed and a report, which shall include all of the following:

(A) Certification that the desegregation plan is being implemented and an itemization of program expenditures to date.

(B) Certification that the district has met the match requirement.

(2) The Controller shall not release funding to the district prior to approval from the Department of Finance.

(c) As used in this section, the “East San Jose group of school districts in collaboration” means a coalition of school districts, composed of Alum Rock Union Elementary School District, Berryessa Union Elementary School District, Eastside Union High School District, Franklin-McKinley Elementary School District, Mt. Pleasant Elementary School District, and Oak Grove Elementary School District, that share resources to combat the detrimental effects of racial segregation.

(d) This section shall be implemented for those fiscal years for which the Director of Finance certifies, in writing, to the Secretary of State that sufficient funding has been appropriated for its purpose in the annual Budget Act or in another measure.

SEC. 3. The Legislature finds and declares all of the following:

(a) Integration programs are designed to improve the ethnic balance of schools and to alleviate the harmful effects of racial isolation.

(b) Current policy does not allow school districts to change their base years for the purposes of computing reimbursements for voluntary desegregation programs to accommodate program growth. However, entirely new voluntary desegregation programs designed to address current problems should be approved.

(c) In an effort to prevent costly legal battles and the likely result of a court-ordered program, a collaboration of East San Jose school districts have combined efforts to implement a more efficient and effective desegregation program. That desegregation program has been in existence since 1996.

(d) School districts that act in good faith under current law should not be penalized for their efforts.

(e) Nothing in this section shall be construed to allow the East San Jose group of school districts in collaboration to receive:

(1) Additional reimbursement for the costs of any voluntary desegregation program for any fiscal year prior to the 1996–97 fiscal year.

(2) More than four-fifths of the actual costs of the district's voluntary desegregation program approved by the Controller for any fiscal year.

(3) Reimbursement for any costs that are not approved within the annual Budget Act.

SEC. 4. (a) The Legislature finds and declares that the Eastside Union High School District has operated a voluntary desegregation program that was initiated in the 1982–83 fiscal year.

(b) The voluntary desegregation program operated by the East San Jose group of school districts, as authorized pursuant to Section 2 of this act, shall replace the voluntary desegregation program that was previously operated by the Eastside Union High School District.

(c) The base fiscal year for all state reimbursement computations for the voluntary desegregation program operated by the East San Jose group of school districts shall be the first full year of operation of the voluntary desegregation program following the 1995-96 fiscal year.

SEC. 5. The Legislature finds and declares that, due to the unique circumstances of the voluntary desegregation program of the East San Jose group of school districts in collaboration, a general statute within the meaning of Section 16 of Article IV of the California

Constitution cannot be made applicable, and the enactment of Section 2 of this act as a special statute is therefore necessary.

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## CHAPTER 862

An act to add Section 42247.5 to the Education Code, relating to school desegregation.

[Approved by Governor October 10, 1997. Filed with Secretary of State October 10, 1997.]

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

SECTION 1. Section 42247.5 is added to the Education Code, to read:

42247.5. (a) For the purposes of Section 42247.1, the "Administrative Recommendations and Action Plans for Implementing a Voluntary Desegregation Plan in the Sacramento City Unified School District," adopted February 29, 1988, and as subsequently amended, shall be the latest adopted desegregation plan for the Sacramento City Unified School District.

(b) Notwithstanding Section 42247, commencing with the 1998–99 fiscal year, and each fiscal year thereafter, reimbursements for voluntary desegregation authorized pursuant to Sections 42243.9, 42247, and 42249 to the Sacramento City Unified School District shall not exceed the amount in excess of one-fifth of the audited desegregation costs approved by the Controller and actually incurred in the 1990–91 fiscal year, reduced by the federal desegregation reimbursement of three million ninety-six thousand nine hundred eighty-nine dollars ($3,096,989) received in the 1990–91 fiscal year, adjusted pursuant to Section 42247.2, provided that the school district has contributed in the prior fiscal year not less than one-fifth of the audited costs approved by the Controller that fiscal year. The audited costs actually incurred in the 1990–91 fiscal year includes expenditures for the Sacramento City Unified School District's federal magnet program.

(c) Nothing in this section shall be construed to permit the Sacramento City Unified School District to receive any of the following:

(1) Additional reimbursement for the costs of its voluntary desegregation program for any fiscal year prior to the 1998–99 fiscal year.

(2) More than four-fifths of actual costs of the district's voluntary desegregation program approved by the Controller for any fiscal year.

(3) Reimbursement for any voluntary desegregation program costs for which the district receives federal funding.

SEC. 2. It is the intent of the Legislature in enacting this act to recognize that the "Administrative Recommendations and Action Plans for Implementing a Voluntary Desegregation Plan in the Sacramento City Unified School District," adopted February 29, 1988, and as subsequently amended, is the latest adopted desegregation plan of the school district, to declare the intent of the Legislature that any proposed plan of the school district that was previously used for the purposes of Section 42247.1 no longer be used for that section, and to use the 1990–91 fiscal year, as the first full year of operation of the Sacramento City Unified School District under that plan, as the base year for the purpose of computing the amounts that the district may be reimbursed for the costs of its voluntary desegregation program.

SEC. 3. The Sacramento City Unified School District is currently operating a voluntary desegregation program. The costs for the program exceed the state's funding allowance because existing law holds the district to a maximum based upon the 1984–85 fiscal year, a year when the district had only begun to plan its programs. In contrast, existing law permits school districts commencing their programs following the 1984–85 fiscal year to have their reimbursement based upon the first full year of program operation. In order for the Sacramento City Unified School District to be reimbursed based upon the first full year of program operation, it is the intent of the Legislature in enacting the act to, commencing with the 1998–99 fiscal year and each fiscal year thereafter, set the base fiscal year for all state reimbursement calculations for the district's voluntary desegregation program at the 1990–91 fiscal year. It is further the intent of the Legislature that the expenditures for the district's federal magnet program shall be included in the 1990–91 base fiscal year. It is further the intent of the Legislature that the costs claimed by the district be subject to an audit of the expenditures in accordance with the standards and procedures for audits of voluntary and court-ordered desegregation programs issued by the Controller.

SEC. 4. Section 1 shall not become operative unless and until funding has been provided through the annual Budget Act.

SEC. 5. The Legislature finds and declares that due to the unique circumstances set forth in Sections 2 and 3 of this act regarding the Sacramento City Unified School District, a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution.

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## CHAPTER 863

An act to amend Sections 56839.1 and 57103 of, and to add Section 57093 to, the Government Code, relating to local government organization.

[Approved by Governor October 10, 1997. Filed with Secretary of State October 10, 1997.]

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

SECTION 1. Section 56839.1 of the Government Code is amended to read:

56839.1. (a) Notwithstanding Sections 57077 and 57087, the commission shall authorize the conducting authority to order (1) the consolidation of districts, (2) dissolution, (3) merger, or (4) the establishment of a subsidiary district, or (5) a reorganization that includes any of these changes of organization without an election, except that an election shall be held in each affected city or district if there are written protests as follows:

(1) Where the proposal was not initiated by the commission, and where an affected city or district has not objected by resolution to the proposal, a written protest has been submitted that meets the requirements specified in subdivisions (b) and (c) of Section 57081.

(2) Where the proposal was not initiated by the commission, and where an affected city or district has objected by resolution to the proposal, a written protest has been submitted that meets the requirements specified in paragraphs (1) and (2) of subdivision (a) and subdivision (b) of Section 57093.

(3) Where the proposal was initiated by the commission, and regardless of whether an affected city or district has objected to the proposal by resolution, a written protest has been submitted that meets the requirements of Section 57092.

(b) Notwithstanding subdivision (a), the commission shall not authorize the conducting authority to order a merger or establishment of a subsidiary district without the consent of the affected city.

(c) This section shall not apply to any proposal for a change of organization or reorganization that is submitted to the commission before January 1, 2003, where the Goleta Sanitary District or the Goleta West Sanitary District is an affected district. The Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the following special circumstances:

The voters of the Goleta Sanitary District previously voted against a proposed consolidation with the Goleta West Sanitary District by a margin of two to one. More recently, a reorganization proposal was submitted to the commission in Santa Barbara County that would have combined the Goleta Sanitary District and the Goleta West Sanitary District under circumstances where no opportunity for confirmation by the Goleta Sanitary District voters would be available. In light of the issues that were raised in connection with these earlier consolidation and reorganization proposals, a five-year

moratorium on the application of Section 56839.1 to proposals affecting the Goleta Sanitary District or the Goleta West Sanitary District is necessary to ensure an opportunity for voter confirmation.

SEC. 2. Section 57093 is added to the Government Code, to read:

57093. (a) Notwithstanding Section 56839.1 and Section 57089, for any proposal for the dissolution of one or more districts and the annexation of all or substantially all of their territory to another district, 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 25 percent of the number of landowners within any affected district within the affected territory who own at least 25 percent of the assessed value of land within the territory.

(B) At least 25 percent of the voters entitled to vote as a result of residing within, or owning land within, any affected district within the affected territory.

(2) In the case of a landowner-voter district, that the territory is uninhabited and a petition requesting that the proposal be submitted to confirmation by the voters has been signed by at least 25 percent of the number of landowners within any affected district within the affected territory, owning at least 25 percent of the assessed value of land within the territory of that district.

(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.

(c) If a petition that meets the requirements of this section has been filed, the conducting authority shall approve the proposal subject to confirmation by the voters of each district that has filed such a petition. The voter confirmation requirements set forth in subdivision (a) shall not apply to any proposal initiated by the commission under Section 56375 or where each affected district has consented to the proposal by a resolution adopted by a majority vote of its board of directors.

SEC. 3. Section 57103 of the Government Code is amended to read:

57103. In any resolution ordering a change of organization or reorganization subject to the confirmation of the voters, the conducting authority shall call an election:

(a) Within the territory of each city or district ordered to be incorporated, formed, disincorporated, dissolved or consolidated.

(b) Within the entire territory of each district ordered to be merged with or established as a subsidiary district of a city, or both within the district and within the entire territory of the city outside the boundaries of the district.

(c) If the clerk certifies a petition pursuant to Section 57087.5 or 57087.7, within the territory of the district ordered to be merged with or established as a subsidiary district of a city.

(d) Within the territory ordered to be annexed or detached.

(e) If ordered by the commission pursuant to Section 56849 or 56850, both within the territory ordered to be annexed or detached and within all or the part of the city or district which is outside of the territory.

(f) If the election is required by Section 57093, separately within the territory of each affected district that has filed a petition meeting the requirements of Section 57093.

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## CHAPTER 864

An act to add and repeal Article 4 (commencing with Section 90530) of Chapter 11 of Part 55 of the Education Code, relating to teacher recruitment, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 10, 1997. Filed with Secretary of State October 10, 1997.]

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

SECTION 1. Article 4 (commencing with Section 90530) is added to Chapter 11 of Part 55 of the Education Code, to read:

### Article 4. Teacher Recruitment Program

90530. (a) The California Center on Teaching Careers is hereby established for the purpose of recruiting qualified and capable individuals into the teaching profession. From funds appropriated for that purpose, the California State University shall establish and administer the center, with the concurrence of representatives of the Commission on Teacher Credentialing, the State Department of Education, the University of California, and independent institutions of higher education as defined in subdivision (b) of Section 66010. For the purposes of this subdivision, "concurrence" means agreement on all of the following:

(1) The priorities, goals, and general objectives of the duties set forth in Section 90531.

(2) The order in which the duties specified in this chapter are undertaken.

(b) It is the intent of the Legislature that activities of the California Center on Teaching Careers be implemented with the active involvement of local education agencies whenever appropriate.

90531. The duties of the California Center on Teaching Careers shall include, but not be limited to, all of the following:

(a) Developing and distributing statewide public services announcements.

(b) Developing and modifying and distributing effective recruitment publications.

(c) Providing information to prospective teachers regarding requirements for obtaining a teaching credential.

(d) Providing specific information to prospective teachers regarding admission to and enrollment into conventional and alternative teacher preparation programs.

(e) Creating or expanding a referral data base for qualified teachers seeking employment in the public schools.

(f) Developing and conducting outreach activities to high school pupils as well as to college students.

90532. It is the intent of the Legislature that the funds appropriated by the state in this bill for the purposes of this article be matched dollar-for-dollar by funds from other sources, including, but not limited to, federal programs, local sources, private sector sources, and other state programs.

90533. The Commission on Teacher Credentialing, in consultation with the Legislative Analyst, shall conduct an evaluation of the program established by this article on or before March 1, 2002, and the Legislative Analyst may include that evaluation in the analysis of the 2002–03 Budget Bill prepared by the Legislative Analyst.

90534. This article shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2008, deletes or extends that date.

SEC. 2. (a) The sum of five hundred thousand dollars ($500,000) is hereby appropriated from the unappropriated balance of federal funds received by the state pursuant to the federal Goals 2000: Educate America Act (P.L. 103-227) to the California State University, without regard to fiscal year, for the support of the California Center on Teaching Careers established pursuant to Article 4 (commencing with Section 90530) of Chapter 11 of Part 55 of the Education Code.

(b) It is the intent of the Legislature that ongoing support for the California Center on Teaching Careers established pursuant to Article 4 (commencing with Section 90530) of Chapter 11 of Part 55 of the Education Code be appropriated in the annual Budget Act.

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

In order to begin recruiting qualified individuals into the teaching profession, at the earliest possible time in an effort to alleviate the shortage of credentialed teachers that California will be experiencing

over the next several years, it is necessary for this act to take effect immediately.

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## CHAPTER 865

An act to add and repeal Section 42285.3 of the Education Code, relating to education.

[Approved by Governor October 10, 1997. Filed with Secretary of State October 10, 1997.]

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

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

(1) The Plumas Unified School District operates a total of 14 schools, of which five meet the strict geographical and size restrictions required for necessary small school funding under Article 4 (commencing with Section 42280) of Chapter 7 of Part 24 of the Education Code.

(2) Unfortunately, the Plumas Unified School District does not meet the requirement of 2,501 or fewer average daily attendance set forth in Article 4 (commencing with Section 42280) of Chapter 7 of Part 24 of the Education Code (the district had 3,684 ADA in the 1995–96 school year), and is thus ineligible for necessary small school funding.

(3) In previous years, Plumas Unified School District received considerable funding from federal Forest Reserve revenues and was able to use these funds to subsidize the operation of these five small schools. However, these federal Forest Reserve funds, which have dropped from a high of two million eight hundred thousand dollars ($2,800,000) in 1992–93 to one million seven hundred thousand dollars ($1,700,000) in 1995–96, are expected to decline further to approximately one million two hundred thousand dollars ($1,200,000) in 1996–97, and to continue to descend thereafter.

(b) It is, therefore, the intent of the Legislature to provide a method through which the Plumas Unified School District, and any other similarly situated school districts, would be eligible to receive apportionments pursuant to the schedules for a "necessary small school" and a "necessary small high school," as set forth in Article 4 (commencing with Section 42280) of Chapter 7 of Part 24 of the Education Code.

SEC. 2. Section 42285.3 is added to the Education Code, to read:

42285.3. (a) Notwithstanding subdivision (b) of Section 42280 or any other provision of law, a unified school district that is the only school district in a county, that has received more than two million seven hundred thousand dollars ($2,700,000) in federal Forest

Reserve funds in the 1992–93 school year and less than one million three hundred thousand dollars ($1,300,000) in federal Forest Reserve funds in the 1996–97 school year, and that has fewer than 4,501 units of average daily attendance in the 1997–98 school year or in subsequent school years shall be eligible to receive apportionments pursuant to the schedules for a "necessary small school" and a "necessary small high school," as set forth in this article, for up to the total number of schools in the district that would have met the criteria for classification as a necessary small school or a necessary small high school in the 1996–97 fiscal year, if the district had fewer than 2,501 units of average daily attendance in the 1996–97 fiscal year, except that this section shall not apply in any school year in which an otherwise eligible school district receives more than two million dollars ($2,000,000) in federal Forest Reserve funds.

(b) This section shall become inoperative on July 1, 1999, and as of January 1, 2000, is repealed, unless a later enacted statute, that is enacted on or before January 1, 2000, deletes or extends the dates on which it becomes inoperative and is repealed.

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## CHAPTER 866

An act to add Chapter 4.6 (commencing with Section 84600) to Title 9 of the Government Code, relating to the Political Reform Act of 1974, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 10, 1997. Filed with Secretary of State October 11, 1997.]

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

SECTION 1. Chapter 4.6 (commencing with Section 84600) is added to Title 9 of the Government Code, to read:

### CHAPTER 4.6. ONLINE DISCLOSURE ACT OF 1997

84600. This chapter may be known and may be cited as the Online Disclosure Act of 1997.

84601. The Legislature finds and declares as follows:

(a) The people of California enacted one of the nation's most comprehensive campaign and lobbying financial disclosure laws when they voted for Proposition 9, the Political Reform Act of 1974, an initiative statute.

(b) Public access to campaign and lobbying disclosure information is a vital and integral component of a fully informed electorate.

(c) Advances in technology have made it viable for disclosure statements and reports required by the Political Reform Act to be filed online and placed on the Internet, thereby maximizing availability to the public.

84602. To implement the Legislature's intent, the Secretary of State, in consultation with the Fair Political Practices Commission, notwithstanding any other provision of this title or any other provision of the Government Code, shall do all of the following:

(a) Develop an online filing process for use by persons and entities specified in Sections 84604 and 84605 required to file statements and reports with the Secretary of State's office pursuant to Chapter 4 (commencing with Section 84100), and Chapter 6 (commencing with Section 86100). As part of that process, the Secretary of State shall define a nonproprietary standardized record format or formats using industry standards for the transmission of the data required of those persons and entities specified in subdivision (a), and which conforms with the disclosure requirements of this title. The Secretary of State shall hold public hearings prior to development of the record format as a means to ensure that affected entities have an opportunity to provide input into the development process. The format or formats shall be made public no later than September 1, 1999, to ensure sufficient time to comply with the requirements of this chapter.

(b) Accept test files, from software vendors and others wishing to file reports electronically, for the purpose of determining whether the file format is in compliance with the standardized record format developed pursuant to subdivision (a) and is compatible with the Secretary of State's system for receiving the data. A list of software and service providers who have submitted acceptable test files shall be published by the Secretary of State and made available to the public. Acceptably formatted files shall be submitted by a filer in order to meet the requirements of this chapter.

(c) Develop a system that provides for the online transfer of the data specified in this section utilizing telecommunications technology, which assures the integrity of the data transmitted, and creates safeguards against efforts to tamper with or subvert the data.

(d) Make all the data filed online available on the largest, nonproprietary, nonprofit, cooperative public network of computer networks in an easily understood format that provides the greatest public access. The data shall be made available free of charge and as soon as possible after receipt. All late contribution and late independent expenditure reports, as defined by Sections 84203 and 84204, respectively, shall be made available online within 24 hours of receipt. The data made available shall not contain the street name and building number of the persons or entity representatives listed on the electronically filed forms.

(e) Develop a procedure for filers to comply with the requirement that they sign under penalty of perjury pursuant to Section 81004.

(f) Maintain all filed data online for 10 years after the date it is filed, and then archive the information in a secure format.

(g) Provide assistance to those seeking public access to the information.

(h) Consult with the Department of Information Technology and implement sufficient technology to seek to prevent unauthorized alteration or manipulation of the data. The online disclosure system shall not become operative until the Department of Information Technology approves the system.

(i) Provide the commission with necessary information to enable it to assist agencies, public officials, and others, with the compliance and administration of this title.

(j) Report to the Legislature on the implementation and development of the online filing and disclosure requirements of this chapter. The report shall include an examination of system security, private security issues, software availability, compliance costs to filers, and other issues, relating to this chapter, recommending appropriate changes if necessary. In preparing the report, the commission may present to the Secretary of State and the Legislature its comments regarding this chapter as it relates to the duties of the commission and suggest appropriate changes if necessary. There shall be one report due before the system is operational as set forth in Section 84603, and one due no later than June 1, 2001.

84603. The Secretary of State, once all state-mandated development, procurement, and oversight requirements have been met, shall make public their availability to accept reports online. Any filer may then commence voluntarily filing online any required report or statement that is otherwise required to be filed with the Secretary of State pursuant to Chapter 4 (commencing with Section 84100) or Chapter 6 (commencing with 86100) of this title.

84604. (a) The Secretary of State shall implement an online disclosure program in connection with the 2000 state primary election and the lobbying activities specified in paragraph (4). Entities specified in paragraphs (1), (2), and (3) shall commence online disclosure with the first preelection statement for the period ending March 17, 2000, and shall continue to disclose online all required reports and statements up until and including the semiannual statement for the period ending June 30, 2000. Entities specified in paragraph (4) shall commence online disclosure with the quarterly report for the period ending March 31, 2000, and shall continue to disclose online all required reports and statements up to and including the quarterly report for the period ending June 30, 2000. The entities subject to this section are the following:

(1) Any candidate, committee, or other persons who are required, pursuant to Chapter 4 (commencing with Section 84100), to file

statements, reports, or other documents in connection with a state elective office or state measure appearing on the June 2000 ballot, provided that the total cumulative reportable amount of contributions received, expenditures made, loans made or received is one hundred thousand dollars ($100,000) or more.

(2) Any general purpose committees, as defined in Section 82027.5, including the general purpose committees of political parties, and small contributor committees, as defined in Section 85203, that cumulatively receive contributions or make expenditures totaling one hundred thousand dollars ($100,000) or more to support or oppose candidates for any elective state office or state measure appearing on the June 2000 ballot.

(3) Any slate mailer organization with cumulative reportable payments received or made for the purposes of producing slate mailers of one hundred thousand dollars ($100,000) or more in connection with the June 2000 election.

(4) Any lobbyist, lobbying firm, lobbyist employer or other persons required, pursuant to Chapter 6 (commencing with Section 86100) to file statements, reports, or other documents provided that the total amount of any category of reportable payments, expenses, contributions, gifts, or other items is one hundred thousand dollars ($100,000) or more in a calendar quarter.

(b) Filers specified in subdivision (a) shall also continue to file required disclosure forms in paper format. The paper copy shall continue to be the official version for audit and other legal purposes. Committees and other persons that are not required to file online by this section may voluntarily file online.

(c) The Secretary of State shall also disclose online any late contribution or late independent expenditure report, as defined by Sections 84203 and 84204 respectively, not covered by subdivision (a).

(d) It shall be presumed that online filers file under penalty of perjury.

84605. Beginning on July 1, 2000, and for all applicable reporting periods thereafter, the following persons shall file online with the Secretary of State:

(a) Any candidate, committee, or other persons who are required, pursuant to Chapter 4 (commencing with Section 84100), to file statements, reports, or other documents in connection with a state elective office or state measure, provided that the total cumulative reportable amount of contributions received, expenditures made, loans made or received is fifty thousand dollars ($50,000) or more in an election cycle. In determining the cumulative reportable amount, all controlled committees, as defined by Section 82016, and office holder accounts, as defined by Section 85313, shall be included.

(b) Any general purpose committees, as defined in Section 82027.5, including the general purpose committees of political parties, and small contributor committees, as defined in Section

85203, that cumulatively receive contributions or make expenditures totaling fifty thousand dollars ($50,000) or more in an election cycle to support or oppose candidates for any elective state office or state measure.

(c) Any slate mailer organization with cumulative reportable payments received or made for the purposes of producing slate mailers of fifty thousand dollars ($50,000) or more in an election cycle.

(d) Any lobbyist, lobbying firm, lobbyist employer or other persons required, pursuant to Chapter 6 (commencing with Section 86100), to file statements, reports, or other documents provided that the total amount of any category of reportable payments, expenses, contributions, gifts, or other items is five thousand dollars ($5,000) or more in a calendar quarter.

(e) The Secretary of State shall also disclose online any late contribution or late independent expenditure report, as defined by Sections 84203 and 84204 respectively, not covered by subdivision (a), (b), or (c).

(f) Committees and other persons that are not required to file online by this section may voluntarily file online.

(g) Once a person or entity is required to file online, subject to subdivision (a), (b), (c), or (d), they shall be required to file all subsequent reports online.

(h) It shall be presumed that online filers file under penalty of perjury.

(i) Persons filing electronically shall also continue to file required disclosure statements and reports in paper format. The paper copy shall continue to be the official filing for audit and other legal purposes until such time that the Secretary of State, pursuant to Section 84606, determines the system is operating securely and effectively.

(j) The Secretary of State shall maintain at all times a secured, official version of all original electronically filed statements and reports required by this chapter. Upon determination by the Secretary of State, pursuant to Section 84606, that the system is operating securely and effectively, this electronic version shall be the official version for audit and other legal purposes.

84606. The Secretary of State shall determine and publicly disclose when the online disclosure system is operating effectively. In making this determination, the Secretary of State shall consult with the commission, the Department of Information Technology, and any other appropriate public or private entity. Upon this determination, filers required by this chapter to file online will no longer be required to file a paper format or with local filing officers. Furthermore, the date that a filer transmits an online report shall be the date the filed report is received by the Secretary of State.

84607. Pursuant to Section 8314, no employee or official of a state or local government agency shall utilize, for political or campaign

purposes, public facilities or resources to retrieve or maintain any of the data produced by the requirements of this chapter.

84609. All candidates and ballot measure committees who are required, pursuant to Chapter 4 (commencing with Section 84100), to file statements, reports, or other documents in connection with a statewide elective office or state measure appearing on the November 1998 ballot shall provide at the time of filing, in addition to a paper submission, a copy of the required report on computer disk in either an ASCII or PDF format with documentation detailing the field layout or file structure. Filers who submit computer disks which are not readable, cannot be copied, or do not have documentation have not complied with the requirements of this section. Candidate and ballot measure committees who make their report available on the Internet through the Secretary of State's office are not required to file the report on computer disk. The Secretary of State shall make copies available to the public, upon payment of fees covering direct costs of duplication, or a statutory fee, if applicable. The Secretary of State shall also disclose online, any late contribution or late independent expenditure report, as defined by Sections 84203 and 84204 respectively, filed in connection with any elective state office or ballot measure appearing on the November 1998 ballot.

84610. There is hereby appropriated from the General Fund of the state to the Secretary of State the sum of one million one hundred thousand dollars ($1,100,000) for the purposes of developing the online disclosure system provided by this chapter and reimbursing local agencies for any costs they incur in the development of this system.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because in that regard this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Except for the costs to be reimbursed pursuant to the appropriation set forth in Section 1, no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act provides for offsetting savings to local agencies or school districts that result in no net costs to the local agencies or school districts, within the meaning of Section 17556 of the Government Code.

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

SEC. 3. The Legislature finds and declares that the provisions of this act further the purpose of the Political Reform Act of 1974 within

the meaning of subdivision (a) of Section 81012 of the Government Code.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for the Secretary of State to have sufficient time to provide for an online disclosure and electronic filing system, it is necessary that this act take effect immediately.

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## CHAPTER 867

An act to add Sections 19810A, 19811A, 19812A, 19813A, 19814A, 19815.5A, 19815.8A, 19817A, 19820A, 19821A, 19822A, 19823A, 19824A, 19841A, 19842A, 19846A, 19847A, 19848A, 19850A, 19851A, 19852A, 19853A, 19854A, 19856A, 19857A, 19858A, 19858.7A, 19860A, 19862A, 19863A, 19864A, 19871A, 19872A, 19882A, 19883A, 19910.5A, 19911A, 19912A, 19913A, 19915A, 19918A, 19920A, 19921A, 19933.5A, 19942A, 19959.5A, and 19960.2A to, to add Article 3 (commencing with Section 19830A) and Article 7 (commencing with Section 19900A) to Chapter 5 of, to repeal Sections 19445, 19809, 19816, 19822.1, 19823.1, and 19950.2 of, to repeal Sections 19810, 19811, 19812, 19813, 19814, 19817, 19820, 19821, 19822, 19823, 19841, 19842, 19846, 19847, 19848, 19850, 19851, 19852, 19853, 19854, 19856, 19857, 19858, 19858.7, 19860, 19862, 19863, 19864, 19871, 19872, 19882, 19883, 19910.5, 19911, 19912, 19913, 19915, 19918, 19920, 19921, 19933.5, 19942, 19959.5, and 19960.2 to, to repeal and add Article 3 (commencing with Section 19830) and Article 8 (commencing with Section 19900) of Chapter 5 of, and to repeal and add Chapter 5 (commencing with Section 19800) of, Division 8 of, the Business and Professions Code, to add Section 1822.60 to the Code of Civil Procedure, to amend Section 15001 of, and to add Sections 15001.1 and 15001.2 to, the Government Code, and to amend Sections 186.9 and 14161 of, to add, repeal, and add Section 337j to, the Penal Code, and to add Chapter 8 (commencing with Section 4369) to Part 3 of Division 4 of the Welfare and Institutions Code, relating to gambling.

[Approved by Governor October 10, 1997. Filed with
Secretary of State October 11, 1997.]

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

SECTION 1. Section 19445 of the Business and Professions Code is repealed.

SEC. 2. Chapter 5 (commencing with Section 19800) of Division 8 of the Business and Professions Code is repealed.

SEC. 3. Chapter 5 (commencing with Section 19800) is added to Division 8 of the Business and Professions Code, to read:

### CHAPTER 5. THE GAMBLING CONTROL ACT

#### Article 1. General Provisions

19800. This chapter shall be known, and may be cited, as the "Gambling Control Act."

19801. The Legislature hereby finds and declares all of the following:

(a) The longstanding public policy of this state disfavors the business of gambling. State law prohibits commercially operated lotteries, banked or percentage games, and gambling machines, and strictly regulates parimutuel wagering on horseracing. To the extent that state law categorically prohibits certain forms of gambling and prohibits gambling devices, nothing herein shall be construed, in any manner, to reflect a legislative intent to relax those prohibitions.

(b) Gambling can become addictive and is not an activity to be promoted or legitimized as entertainment for children and families.

(c) Unregulated gambling enterprises are inimical to the public health, safety, welfare, and good order. Accordingly, no person in this state has a right to operate a gambling enterprise except as may be expressly permitted by the laws of this state and by the ordinances of local governmental bodies.

(d) It is the policy of this state that gambling activities that are not expressly prohibited or regulated by state law may be prohibited or regulated by local government. Moreover, it is the policy of this state that no new cardroom may be opened in a city, county, or city and county in which a cardroom was not operating on and before January 1, 1984, except upon the affirmative vote of the electors of that city, county, or city and county.

(e) It is not the purpose of this chapter to expand opportunities for gambling, or to create any right to operate a gambling enterprise in this state or to have a financial interest in any gambling enterprise. Rather, it is the purpose of this chapter to regulate businesses that offer otherwise lawful forms of gambling games.

(f) Public trust that permissible gambling will not endanger public health, safety, or welfare requires that comprehensive measures be enacted to ensure that such gambling is free from criminal and corruptive elements, that it is conducted honestly and competitively, and that it is conducted in suitable locations.

(g) Public trust and confidence can only be maintained by strict and comprehensive regulation of all persons, locations, practices, associations, and activities related to the operation of lawful gambling establishments and the manufacture or distribution of permissible gambling equipment.

(h) All gambling operations, all persons having a significant involvement in gambling operations, all establishments where gambling is conducted, and all manufacturers, sellers, and distributors of gambling equipment must be licensed and regulated to protect the public health, safety, and general welfare of the residents of this state as an exercise of the police powers of the state.

(i) To ensure that gambling is conducted honestly, competitively, and free of criminal and corruptive elements, all licensed gambling establishments in this state must remain open to the general public and the access of the general public to licensed gambling activities must not be restricted in any manner, except as provided by the Legislature. However, subject to state and federal prohibitions

against discrimination, nothing herein shall be construed to preclude exclusion of unsuitable persons from licensed gambling establishments in the exercise of reasonable business judgment.

(j) In order to effectuate state policy as declared herein, it is necessary that gambling establishments, activities, and equipment be licensed, that persons participating in those activities be licensed or registered, that certain transactions, events, and processes involving gambling establishments and owners of gambling establishments be subject to prior approval or permission, that unsuitable persons not be permitted to associate with gambling activities or gambling establishments, and that gambling activities take place only in suitable locations. Any license or permit issued, or other approval granted pursuant to this chapter, is declared to be a revocable privilege, and no holder acquires any vested right therein or thereunder.

(k) The location of lawful gambling premises, the hours of operation of those premises, the number of tables permitted in those premises, and wagering limits in permissible games conducted in those premises are proper subjects for regulation by local governmental bodies. However, consideration of those same subjects by a state regulatory agency, as specified in this chapter, is warranted when local governmental regulation respecting those subjects is inadequate or the regulation fails to safeguard the legitimate interests of residents in other governmental jurisdictions.

(*l*) The exclusion or ejection of certain persons from gambling establishments is necessary to effectuate the policies of this chapter and to maintain effectively the strict regulation of licensed gambling.

(m) Records and reports of cash and credit transactions involving gambling establishments may have a high degree of usefulness in criminal and regulatory investigations and, therefore, licensed gambling operators may be required to keep records and make reports concerning significant cash and credit transactions.

19801.2. The Legislature further finds and declares as follows:

Appropriate regulation of banking and percentage games or of gambling devices consistent with public safety and welfare would require, at a minimum, all of the following safeguards:

(a) The creation of an adequately funded gambling control commission with comprehensive powers to establish minimum standards and technical specifications for gambling equipment and devices.

(b) The creation of an adequately funded law enforcement capability within state government to inspect, test, and evaluate gambling equipment and devices and modifications thereto.

(c) An appropriation by the Legislature to sufficiently fund a full-time commission and law enforcement capability with responsibilities commensurate with the expanded scope of gambling.

(d) The enactment of necessary regulations setting forth standards and procedures for the licensing of persons connected with

the manufacture, sale, and distribution of equipment and devices in this state.

(e) The enactment of standards related to the trustworthiness and fairness of equipment and devices, upon the commission's recommendation to the Legislature.

(f) The enactment of statutory provisions governing the importation, transportation, sale, and disposal of equipment and devices, upon the commission's recommendation to the Legislature.

(g) The enactment of statutes providing for appropriate inspection and testing of equipment and devices, upon the commission's recommendation to the Legislature.

19802. (a) It is the intent of the Legislature, in enacting this chapter, to provide uniform, minimum standards of regulation of permissible gambling activities and the operation of lawful gambling establishments.

(b) Nothing in this chapter shall be construed to preclude any city, county, or city and county from prohibiting any gambling activity, from imposing more stringent local controls or conditions upon gambling than are imposed by this chapter or by the board, from inspecting gambling premises to enforce applicable state and local laws, or from imposing any local tax or license fee, if the prohibition, control, condition, inspection, tax, or fee is not inconsistent with this chapter. Nothing in this chapter shall be construed to affect the responsibility of local law enforcement agencies to enforce the laws of this state, including this chapter.

19804. (a) In any action for declaratory or injunctive relief, or for relief by way of any extraordinary writ, other than an action initiated pursuant to Section 19922, wherein the construction, application, or enforcement of this chapter, or any regulation adopted pursuant thereto, or any order of the division or the board issued pursuant thereto, is called into question, a court shall not grant any preliminary or permanent injunction, or any peremptory writ of mandate, certiorari, or prohibition, in connection therewith, except as follows:

(1) Upon proof by clear and convincing evidence that the division or the board is abusing or threatens to abuse its discretion.

(2) Upon proof by clear and convincing evidence that the division or the board is exceeding or threatens to exceed its jurisdiction.

(b) No temporary injunction or other provisional order shall issue to restrain, stay, or otherwise interfere with any action by the division or the board except upon a finding by the court, based on clear and convincing evidence, that the public interest will not be prejudiced thereby, and no such order shall be effective for more than 15 calendar days.

(c) Nothing herein shall be construed to relieve a petitioner's obligation to exhaust administrative remedies.

(d) In an action for relief of any nature wherein the construction, application, or enforcement of this chapter, or any regulation adopted pursuant thereto, or any order of the division or board issued

pursuant thereto, is called into question, the party filing the pleading shall furnish a copy thereof to the division. The copy shall be furnished by the party filing the pleading within 10 business days after filing.

19805. As used in this chapter, the following definitions shall apply:

(a) "Affiliate" means a person who, directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, a specified person.

(b) "Applicant" means any person who has applied for, or is about to apply for, a state gambling license, manufacturer's or distributor's license, or approval of any act or transaction for which division approval is required or permitted under this chapter.

(c) "Board" means the California Gambling Control Board.

(d) "Controlled gambling" means to deal, operate, carry on, conduct, maintain, or expose for play any controlled game.

(e) "Controlled game" means any controlled game, as defined by subdivision (e) of Section 337j of the Penal Code.

(f) "Director," when used in connection with a corporation, means any director of a corporation or any person performing similar functions with respect to any organization. In any other case, "director" means the Director of the Division of Gambling Control.

(g) "Division" means the Division of Gambling Control in the Department of Justice.

(h) "Finding of suitability" means a finding that a person meets the qualification criteria described in subdivisions (a) and (b) of Section 19848, and that the person would not be disqualified from holding a state gambling license on any of the grounds specified in subdivision (a) of Section 19850.

(i) "Game" and "gambling game" means any controlled game.

(j) "Gambling" means to deal, operate, carry on, conduct, maintain, or expose for play any controlled game.

(k) "Gambling enterprise employee" means any natural person employed in the operation of a gambling enterprise, including, without limitation, dealers, floormen, security employees, countroom personnel, cage personnel, collection personnel, surveillance personnel, data processing personnel, appropriate maintenance personnel, waiters and waitresses, and secretaries, or any other natural person whose employment duties require or authorize access to restricted gambling establishment areas.

(*l*) "Gambling establishment" or "establishment" means one or more rooms where any controlled gambling occurs.

(m) "Gambling license" means any license issued by the state that authorizes the person named therein to conduct a gambling operation.

(n) "Gambling operation" means one or more controlled games that are dealt, operated, carried on, conducted, maintained, or exposed for play for commercial gain.

(o) Except as provided by regulation, “gross revenue” means the total of all compensation received for conducting any controlled game, and includes interest received in payment for credit extended by an owner licensee to a patron for purposes of gambling.

(p) Except as determined by regulation, “independent agent” means any person who does either of the following:

(1) Approves or grants the extension of gambling credit on behalf of a gambling licensee or collects debt evidenced by a credit instrument.

(2) Contracts with an owner licensee, or an affiliate thereof, to provide services consisting of arranging transportation or lodging for guests at a gambling establishment.

(q) “Institutional investor” means any retirement fund administered by a public agency for the exclusive benefit of federal, state, or local public employees, any investment company registered under the Investment Company Act of 1940 (15 U.S.C. Sec. 80a-1 et seq.), any collective investment trust organized by banks under Part Nine of the Rules of the Comptroller of the Currency, any closed-end investment trust, any chartered or licensed life insurance company or property and casualty insurance company, any banking and other chartered or licensed lending institution, any investment advisor registered under the Investment Advisors Act of 1940 (15 U.S.C. Sec. 80b-1 et seq.) acting in that capacity, and such other persons as the board may determine for reasons consistent with the policies of this chapter.

(r) “Key employee” means any natural person employed in the operation of a gambling enterprise in a supervisory capacity or empowered to make discretionary decisions that regulate gambling operations, including, without limitation, pit bosses, shift bosses, credit executives, cashier operations supervisors, gambling operation managers and assistant managers, managers or supervisors of security employees, or any other natural person designated as a key employee by the division for reasons consistent with the policies of this chapter.

(s) “Key employee license” means a state license authorizing the holder to be associated with a gambling enterprise as a key employee.

(t) “Licensed gambling establishment” means the gambling premises encompassed by a state gambling license.

(u) “Limited partnership” means a partnership formed by two or more persons having as members one or more general partners and one or more limited partners.

(v) “Limited partnership interest” means the right of a general or limited partner to any of the following:

(1) To receive from a limited partnership any of the following:

(A) A share of the revenue.

(B) Any other compensation by way of income.

(C) A return of any or all of his or her contribution to capital of the limited partnership.

(2) To exercise any of the rights provided under state law.

(w) “Owner licensee” means an owner of a gambling enterprise who holds a state gambling license.

(x) Unless otherwise indicated, “person” includes a natural person, corporation, partnership, limited partnership, trust, joint venture, association, or any other business organization.

(y) “Publicly traded racing association” means a corporation licensed to conduct horseracing and simulcast wagering pursuant to Chapter 4 (commencing with Section 19400) whose stock is publicly traded.

(z) “Qualified racing association” means a corporation licensed to conduct horseracing and simulcast wagering pursuant to Chapter 4 (commencing with Section 19400) that is a wholly owned subsidiary of a corporation whose stock is publicly traded.

(aa) “Work permit” means any card, certificate, or permit issued by the division or by a county, city, or city and county, whether denominated as a work permit, registration card, or otherwise, authorizing the holder to be employed as a gambling enterprise employee or to serve as an independent agent. A document issued by any governmental authority for any employment other than gambling is not a valid work permit for the purposes of this chapter.

19806. Nothing in this chapter shall be construed in any way to permit or authorize any conduct made unlawful by Chapter 9 (commencing with Section 319) of, or Chapter 10 (commencing with Section 330) of, Title 9 of Part 1 of the Penal Code, or any local ordinance.

19807. Except as otherwise provided in this chapter, whenever the division or board is a defendant or respondent in any proceeding, or when there is any legal challenge to regulations issued by the board or division, venue for the proceeding shall be in the County of Sacramento, the City and County of San Francisco, the County of Los Angeles, or the County of San Diego.

19808. Upon the occurrence of one of the events specified in Section 66 of the act that added this chapter, any reference in this chapter to a section repealed upon the occurrence of one of those events shall be deemed to be a reference to the successor section of the same number with the suffix “A” made operative pursuant to Section 66 of the act that added this chapter.

### Article 2. Administration

19809. (a) There is within the Department of Justice the Division of Gambling Control as provided in Section 15001 of the Government Code. Except as otherwise provided in this chapter, any power or authority of the division described in this chapter may be exercised by the Attorney General or such other person as the Attorney General may delegate.

(b) This section shall remain in effect only until the occurrence of one of the events specified in Section 66 of the act that added this chapter, and as of that date is repealed, unless a later enacted statute, which is enacted before the occurrence of one of the events specified in Section 66 of the act that added this chapter, deletes or extends that date.

19810. (a) There is in state government the California Gambling Control Board, consisting of three members.

(b) This section shall remain in effect only until the occurrence of one of the events specified in Section 66 of the act that added this chapter, and as of that date is repealed, unless a later enacted statute, which is enacted before the occurrence of one of the events specified in Section 66 of the act that added this chapter, deletes or extends that date.

19811. (a) Each member of the board shall be a citizen of the United States and a resident of this state.

(b) No Member of the Legislature, no person holding any elective office in state, county, or local government, and no officer or official of any political party is eligible for appointment to the board.

(c) No more than two of the three members of the board shall be members of the same political party.

(d) A person is ineligible for appointment to the board if, within two years prior to appointment, the person, or any partnership or corporation in which the person is a principal, was employed by, retained by, or derived substantial income from, any gambling establishment.

For purposes of this subdivision, "gambling establishment" means one or more rooms wherein any gaming within the meaning of Chapter 10 (commencing with Section 330) of Title 9 of Part 1 of the Penal Code, or any controlled game within the meaning of Section 337j of the Penal Code, is conducted, whether or not the activity occurred in California.

(e) One member of the board shall be a certified public accountant with auditing experience, one member shall be an attorney and a member of the State Bar of California with regulatory law experience, and one member shall be from the public at large.

(f) This section shall remain in effect only until the occurrence of one of the events specified in Section 66 of the act that added this chapter, and as of that date is repealed, unless a later enacted statute, which is enacted before the occurrence of one of the events specified in Section 66 of the act that added this chapter, deletes or extends that date.

19812. (a) Of the members initially appointed, one shall be appointed for a term of two years, one shall be appointed for a term of three years, and one shall be appointed for a term of five years. After the initial terms, the term of office of each member of the board is five years.

(b) The Governor shall appoint the members of the board, subject to confirmation by the Senate, and shall designate one member to serve as chairperson. The initial appointments shall be made on or before March 1, 1998. Thereafter, vacancies shall be filled within 60 days of the date of the vacancy by the Governor, subject to confirmation by the Senate.

(c) The Governor may remove any board member for incompetence, neglect of duty, or corruption upon first giving him or her a copy of the charges and an opportunity to be heard.

(d) This section shall remain in effect only until the occurrence of one of the events specified in Section 66 of the act that added this chapter, and as of that date is repealed, unless a later enacted statute, which is enacted before the occurrence of one of the events specified in Section 66 of the act that added this chapter, deletes or extends that date.

19813. (a) Before entering upon the duties of his or her office, each member shall subscribe to the constitutional oath of office and, in addition, swear that he or she is not, and during his or her term of office shall not be, pecuniarily interested in, or doing business with, any person, business, or organization holding a gambling license.

(b) This section shall remain in effect only until the occurrence of one of the events specified in Section 66 of the act that added this chapter, and as of that date is repealed, unless a later enacted statute, which is enacted before the occurrence of one of the events specified in Section 66 of the act that added this chapter, deletes or extends that date.

19814. (a) Each board member shall receive a per diem of one hundred dollars ($100) for each day spent in attendance at meetings scheduled by the chairperson of the board for the purpose of fulfilling the duties of the board pursuant to this chapter, and shall be reimbursed for traveling and other expenses necessarily incurred in the performance of official duties.

(b) This section shall remain in effect only until the occurrence of one of the events specified in Section 66 of the act that added this chapter, and as of that date is repealed, unless a later enacted statute, which is enacted before the occurrence of one of the events specified in Section 66 of the act that added this chapter, deletes or extends that date.

19815. (a) The board shall have an executive secretary appointed by the board. A person is ineligible for appointment as executive secretary or deputy executive secretary if, within two years prior to appointment, the person, or any partnership or corporation in which the person is a principal, was employed by, retained by, or derived substantial income from, any gambling establishment, whether or not a controlled gambling establishment.

(b) The executive secretary shall receive the annual salary established by the board and approved by the Department of Personnel Administration. The executive secretary shall be the

board's executive officer and shall carry out and execute the duties as specified by law and by the board and, for that purpose, the executive secretary may appoint staff and clerical personnel. It is the intent of the Legislature that the employment of assistants and clerical personnel as provided by this subdivision shall not be accomplished by any reduction in the reasonably necessary staffing level of the division.

19816. (a) The division shall furnish to the board all equipment, supplies, and office space that may be necessary for the purpose of carrying out the board's functions.

(b) This section shall remain in effect only until the occurrence of one of the events specified in Section 66 of the act that added this chapter, and as of that date is repealed, unless a later enacted statute, which is enacted before the occurrence of one of the events specified in Section 66 of the act that added this chapter, deletes or extends that date.

19817. (a) Except as otherwise provided in this chapter, Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code applies to meetings of the board.

(b) This section shall remain in effect only until the occurrence of one of the events specified in Section 66 of the act that added this chapter, and as of that date is repealed, unless a later enacted statute, which is enacted before the occurrence of one of the events specified in Section 66 of the act that added this chapter, deletes or extends that date.

19818. The executive secretary of the board may appoint no more than two attorneys as counsel to the board. However, in lieu of representation by the attorneys appointed pursuant to this section, the board may request representation by the Attorney General in any proceeding before any court.

19820. (a) The division shall maintain a file of all applications for licenses under this chapter, together with a record of all action taken with respect to those applications. The file and record shall be open to public inspection.

(b) The division and board may maintain files and records as they deem appropriate. Except as provided in this chapter, the records of the division are exempt from disclosure under Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code.

(c) Except as necessary for the administration of this chapter, no member of the board and no official, employee, or agent of the board or division, having obtained access to confidential records or information in the performance of duties pursuant to this chapter, shall knowingly disclose or furnish the records or information, or any part thereof, to any person who is not authorized by law to receive it. A violation of this subdivision is a misdemeanor.

(d) Notwithstanding subdivision (k) of Section 1798.24 of the Civil Code, a court shall not compel disclosure of personal information in

the possession of the division to any person in any civil proceeding wherein the division or the board is not a party, except for good cause and upon a showing that the information cannot otherwise be obtained. Nothing herein shall be construed to authorize the disclosure of personal information that would otherwise be exempt from disclosure.

(e) This section shall remain in effect only until the occurrence of one of the events specified in Section 66 of the act that added this chapter, and as of that date is repealed, unless a later enacted statute, which is enacted before the occurrence of one of the events specified in Section 66 of the act that added this chapter, deletes or extends that date.

19821. (a) All files, records, reports, and other information in possession of any state or local governmental agency that are relevant to an investigation by the division conducted pursuant to this chapter shall be made available to the division as requested. However, any tax information received from a governmental agency shall be used solely for effectuating the purposes of this chapter. To the extent that the files, records, reports, or information described in this section are confidential or otherwise privileged from disclosure under any law or exercise of discretion, they shall not lose that confidential or privileged status for having been disclosed to the division.

(b) This section shall remain in effect only until the occurrence of one of the events specified in Section 66 of the act that added this chapter, and as of that date is repealed, unless a later enacted statute, which is enacted before the occurrence of one of the events specified in Section 66 of the act that added this chapter, deletes or extends that date.

19822. (a) The division and the board are responsible for all of the following:

(1) Assuring that licenses, approvals, and permits are not issued to, or held by, unqualified or disqualified persons, or by persons whose operations are conducted in a manner that is inimical to the public health, safety, or welfare.

(2) Assuring that there is no material involvement, directly or indirectly, with a licensed gambling operation, or the ownership or management thereof, by unqualified or disqualified persons, or by persons whose operations are conducted in a manner that is inimical to the public health, safety, or welfare.

(3) Investigating the qualifications of applicants before any license is issued, and investigating any request for any approval or permission that may be required pursuant to this chapter.

(b) For purposes of this section, “unqualified person” means a person who is found to be unqualified pursuant to the criteria set forth in Section 19848, and “disqualified person” means a person who is found to be disqualified pursuant to the criteria set forth in Section 19850.

(c) This section shall remain in effect only until the occurrence of one of the events specified in Section 66 of the act that added this chapter, and as of that date is repealed, unless a later enacted statute, which is enacted before the occurrence of one of the events specified in Section 66 of the act that added this chapter, deletes or extends that date.

19822.1. (a) The responsibilities of the division include, without limitation, all of the following:

(1) Monitoring the conduct of all licensees and other persons having a material involvement, directly or indirectly, with a gambling operation or its holding company, for the purpose of ensuring that licenses are not issued or held by, and that there is no direct or indirect material involvement with, a gambling operation or holding company by ineligible, unqualified, disqualified, or unsuitable persons, or persons whose operations are conducted in a manner that is inimical to the public health, safety, or welfare.

(2) Investigating suspected violations of this chapter or laws of this state relating to gambling, including any activity prohibited by Chapter 9 (commencing with Section 319) or Chapter 10 (commencing with Section 330) of Title 9 of Part 1 of the Penal Code.

(3) Investigating complaints that are lodged against licensees, or other persons associated with a gambling operation, by members of the public.

(4) Initiating, where appropriate, disciplinary actions as provided in this chapter.

(b) This section shall remain in effect only until the occurrence of one of the events specified in Section 66 of the act that added this chapter, and as of that date is repealed, unless a later enacted statute, which is enacted before the occurrence of one of the events specified in Section 66 of the act that added this chapter, deletes or extends that date.

19823. (a) The division shall have all powers necessary and proper to enable it fully and effectually to carry out the policies and purposes of this chapter, including, without limitation, the power to do all of the following:

(1) Require any person to apply for a license or approval as specified in this chapter.

(2) For any cause deemed reasonable by the division, deny any application for a license, permit, or approval provided for in this chapter, or limit, condition, or restrict any such license, permit, or approval.

(3) Approve or disapprove transactions, events, and processes as provided in this chapter.

(4) Take actions deemed to be reasonable to ensure that no ineligible, unqualified, disqualified, or unsuitable persons are associated with controlled gambling activities.

(5) Take actions deemed to be reasonable to ensure that gambling activities take place only in suitable locations.

(6) Grant temporary licenses or approvals on appropriate terms and conditions.

(7) Institute a civil action in any superior court against any person subject to this chapter to restrain a violation of this chapter. An action brought against a person pursuant to this section does not preclude a criminal action or administrative proceeding against that person by the Attorney General or any district attorney or city attorney.

(8) Approve the play of any controlled game, including placing restrictions and limitations on how a controlled game may be played.

(b) This section shall remain in effect only until the occurrence of one of the events specified in Section 66 of the act that added this chapter, and as of that date is repealed, unless a later enacted statute, which is enacted before the occurrence of one of the events specified in Section 66 of the act that added this chapter, deletes or extends that date.

19823.1. (a) In addition to other powers and duties specified in this chapter, the board may grant, deny, revoke, suspend, or impose conditions, restrictions, or limitations on licenses, permits, or approvals as provided in this chapter.

(b) This section shall remain in effect only until the occurrence of one of the events specified in Section 66 of the act that added this chapter, and as of that date is repealed, unless a later enacted statute, which is enacted before the occurrence of one of the events specified in Section 66 of the act that added this chapter, deletes or extends that date.

19825. (a) The division has all powers necessary and proper to enable it to carry out fully and effectually the duties and responsibilities of the division specified in this chapter. The investigatory powers of the division include, but are not limited to, all of the following:

(1) Upon approval of the director, and without notice or warrant, the division may take any of the following actions:

(A) Visit, investigate, and place expert accountants, technicians, and any other person, as it may deem necessary, in all areas of the premises wherein controlled gambling is conducted for the purpose of determining compliance with the rules and regulations adopted pursuant to this chapter.

(B) Visit, inspect, and examine all premises where gambling equipment is manufactured, sold, or distributed.

(C) Inspect all equipment and supplies in any gambling establishment or in any premises where gambling equipment is manufactured, sold, or distributed.

(D) Summarily seize, remove, and impound any equipment, supplies, documents, or records from any licensed premises for the purpose of examination and inspection. However, upon reasonable demand by the licensee or the licensee’s authorized representative, a copy of all documents and records seized shall be made and left on the premises.

(E) Demand access to, and inspect, examine, photocopy, and audit all papers, books, and records of an owner licensee on the gambling premises in the presence of the licensee or his or her agent.

(2) Except as provided in paragraph (1), upon obtaining an inspection warrant pursuant to Section 1822.60 of the Code of Civil Procedure, the division may inspect and seize for inspection, examination, or photocopying any property possessed, controlled, bailed, or otherwise held by any applicant, licensee, or any intermediary company, or holding company.

(3) The division may investigate, for purposes of prosecution, any suspected criminal violation of this chapter. However, nothing in this paragraph limits the powers conferred by any other provision of law on agents of the division who are peace officers.

(4) The division may do both of the following:

(A) Issue subpoenas to require the attendance and testimony of witnesses and the production of books, records, documents, and physical materials.

(B) Administer oaths, examine witnesses under oath, take evidence, and take depositions and affidavits or declarations. Notwithstanding Section 11189 of the Government Code, the division, without leave of court, may take the deposition of any applicant or any licensee. Sections 11185 and 11191 of the Government Code do not apply to a witness who is an applicant or a licensee.

(b) (1) Subdivision (a) shall not be construed to limit warrantless inspections except as required by the California Constitution or the United States Constitution.

(2) Subdivision (a) shall not be construed to prevent entries and administrative inspections, including seizures of property, without a warrant in the following circumstances:

(A) With the consent of the owner, operator, or agent in charge of the premises.

(B) In situations presenting imminent danger to health and safety.

(C) In situations involving inspection of conveyances where there is reasonable cause to believe that the mobility of the conveyance makes it impractical to obtain a warrant, or in any other exceptional or emergency circumstance where time or opportunity to apply for a warrant is lacking.

(D) In accordance with this chapter.

(E) In all other situations where a warrant is not constitutionally required.

19827. (a) Without limiting any privilege that is otherwise available under law, any communication or document from, or concerning, an applicant, licensee, or registrant is absolutely privileged under any of the following circumstances:

(1) It was made or published by an agent or employee of the division or board in the proper discharge of official duties or in the course of any proceeding under this chapter.

(2) It was required to be made or transmitted to the division or board, or any of their agents or employees by law, regulation, or subpoena of the division or the board.

(3) It was made or transmitted to the division for the purpose of causing, or during the course of, an investigation conducted pursuant to this chapter. No statement, and no publication of any document, described in this subdivision, shall impose liability for defamation or constitute a ground for recovery in any civil action.

(b) If any document or communication provided to the division contains any information that is privileged pursuant to Division 8 (commencing with Section 900) of the Evidence Code, or any other provision of law, that privilege is not waived or lost because the document or communication is disclosed to the division or the board or to any of their agents or employees.

(c) The division, the board, and their agents and employees shall not release or disclose any information, documents, or communications provided by an applicant or licensee that are privileged pursuant to Division 8 (commencing with Section 900) of the Evidence Code, without the prior written consent of the applicant or licensee, or pursuant to lawful court order after timely notice of the proceedings has been given to the applicant or licensee. An application to a court for an order requiring the division or the board to release any information declared by law to be confidential shall be made only upon motion made in writing on not less than 10 business days' notice to the division, and to all persons who may be affected by the entry of the order.

19828. Every district attorney, and every state and local law enforcement agency, shall furnish to the division, on forms prepared by the division, all information obtained during the course of any substantial investigation or prosecution of any person, as determined by the division, if it appears that a violation of any law related to gambling has occurred, including any violation of Chapter 9 (commencing with Section 319) or Chapter 10 (commencing with Section 330) of Title 9 of Part 1 of the Penal Code.

19829. There is an investigative account within the Gambling Control Fund. All funds received for the purpose of paying expenses incurred by the division for investigation of an application for a license or approval under this chapter shall be deposited in the account. Expenses may be advanced from the investigative account to the division by the director.

## Article 3. Regulations

19830. (a) The division may adopt regulations for the administration and enforcement of this chapter. To the extent appropriate, regulations of the division shall take into consideration the operational differences of large and small establishments. The

board may adopt regulations relating to its internal procedures that may be required and that are not inconsistent with this chapter.

(b) Subject to subdivision (d), Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code does not apply to the following regulations of the division, if adopted within 90 days after the effective date of this chapter:

(1) Regulations described in subdivisions (a), (b), (e), (g), (h), (i) to (n), inclusive, (p), and (q) of Section 19834.

(2) Regulations adopted for the purpose of implementing Section 62 of the act that enacted this chapter.

(c) Any regulation adopted pursuant to subdivision (b) shall be filed with the Secretary of State and shall be effective immediately upon that filing.

(d) Except as otherwise provided in this subdivision, no regulation adopted pursuant to subdivision (b) shall be valid after September 1, 1998, unless the regulation has been subsequently readopted by the division in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, subject to all of the following:

(1) This subdivision does not apply to a regulation that is exempted from Article 5 (commencing with Section 11346) of Chapter 3.5 of Division 3 of Title 2 of the Government Code, by operation of subdivision (a) of Section 11346.1 of the Government Code.

(2) If, prior to September 1, 1998, the division has mailed a notice described in Section 11346.4 of the Government Code with respect to a regulation adopted pursuant to subdivision (b), the regulation shall not cease to be effective pursuant to this subdivision until the earlier of one of the following events:

(A) The readopted regulation is filed with the Secretary of State pursuant to subdivision (a) of Section 11349.3, or subdivision (e) of Section 11349.5, of the Government Code.

(B) The readopted regulation has been disapproved by the Office of Administrative Law and the time within which a request for review may be filed pursuant to Section 11349.5 of the Government Code has expired.

(C) The readopted regulation is disapproved by the Office of Administrative Law, and the Governor transmits a decision pursuant to subdivision (c) of Section 11349.5 of the Government Code affirming the disapproval.

19834. The regulations adopted by the division shall do all of the following:

(a) With respect to applications, registrations, investigations, and fees, the regulations shall include, but not be limited to, provisions that do all of the following:

(1) Prescribe the method and form of application and registration.

(2) Prescribe the information to be furnished by any applicant, licensee, or registrant concerning, as appropriate, the person's

personal history, habits, character, associates, criminal record, business activities, organizational structure, and financial affairs, past or present.

(3) Prescribe the information to be furnished by an owner licensee relating to the licensee's gambling employees.

(4) Require fingerprinting or other methods of identification of an applicant, licensee, or employee of a licensee.

(5) Prescribe the manner and method of collection and payment of fees and issuance of licenses.

(b) Provide for the approval of game rules and equipment by the division to ensure fairness to the public and compliance with state laws.

(c) Implement the provisions of this chapter relating to licensing.

(d) Require owner licensees to report and keep records of transactions, as determined by the division, involving cash or credit. The regulations may include, without limitation, regulations requiring owner licensees to file with the division reports similar to those required by Sections 5313 and 5314 of Title 31 of the United States Code, and by Sections 103.22 and 103.23 of Title 31 of the Code of Federal Regulations, and any successor provisions thereto, from financial institutions, as defined in Section 5312 of Title 31 of the United States Code and Section 103.11 of Title 31 of the Code of Federal Regulations, and any successor provisions.

(e) Provide for the receipt of protests and written comments on an application by public agencies, public officials, local governing bodies, or residents of the location of the gambling establishment or future gambling establishment.

(f) Provide for the disapproval of advertising by licensed gambling establishments that is determined by the division to be deceptive to the public. Regulations adopted by the division for advertising by licensed gambling establishments shall be consistent with the advertising regulations adopted by the California Horse Racing Board and the Lottery Commission. Advertisement that appeals to children or adolescents, or offers gambling as a means of becoming wealthy is presumptively deceptive.

(g) Govern all of the following:

(1) The extension of credit.

(2) The cashing, deposit, and redemption of checks or other negotiable instruments.

(3) The verification of identification in monetary transactions.

(h) Prescribe minimum procedures for adoption by owner licensees to exercise effective control over their internal fiscal and gambling affairs, which shall include, but not be limited to, provisions for all of the following:

(1) The safeguarding of assets and revenues, including the recording of cash and evidences of indebtedness.

(2) Prescribing the manner in which compensation from games and gross revenue shall be computed and reported by an owner licensee.

(3) The provision of reliable records, accounts, and reports of transactions, operations, and events, including reports to the division.

(i) Provide for the adoption and use of internal audits, whether by qualified internal auditors or by certified public accountants. As used in this subdivision, "internal audit" means a type of control that operates through the testing and evaluation of other controls and that is also directed toward observing proper compliance with the minimum standards of control prescribed in subdivision (h).

(j) Require periodic financial reports from each owner licensee.

(k) Specify standard forms for reporting financial conditions, results of operations, and other relevant financial information.

(*l*) Formulate a uniform code of accounts and accounting classifications to ensure consistency, comparability, and effective disclosure of financial information.

(m) Prescribe intervals at which the information in subdivisions (j) and (k) shall be furnished to the division.

(n) Require audits to be conducted, in accordance with generally accepted auditing standards, of the financial statements of all owner licensees whose annual gross revenues equal or exceed a specified sum. However, nothing herein shall be construed to limit the division's authority to require audits of any owner licensee. Audits, compilations, and reviews provided for in this subdivision shall be made by independent certified public accountants licensed to practice in this state.

(o) Restrict, limit, or otherwise regulate any activity that is related to the conduct of controlled gambling, consistent with the purposes of this chapter.

(p) Define and limit the area, games, and equipment permitted, or the method of operation of games and equipment, when, at the request of a sheriff or district attorney, the division determines that local regulation of these subjects is insufficient to protect the health, safety, or welfare of residents in geographical areas proximate to a gambling establishment.

(q) Prohibit gambling establishments from cashing checks drawn against any federal, state, or county fund, including, but not limited to, social security, unemployment insurance, disability payments, or public assistance payments.

However, a gambling establishment shall not be prohibited from cashing any payroll checks or checks for the delivery of goods or services that are drawn against a federal, state, or county fund.

19834.5. (a) The division shall not prohibit, on a statewide basis, the play of any game or restrict the manner in which any game is played, unless the division, in a proceeding pursuant to this article, finds that the game, or the manner in which the game is played,

violates a law of the United States, a law of this state, or a local ordinance.

(b) Nothing in this section shall be construed to limit the powers of the division in a proceeding against a licensee pursuant to Article 9.5 (commencing with Section 19920).

(c) No regulation prohibiting a game or the manner in which a game is played shall be deemed to be an emergency regulation.

19834.6. The division shall not prohibit, on a statewide basis, the placing of a wager on a controlled game by a person at a gaming table, if the person is present at the table and actively participating in the hand with a single seated player upon whose hand the wagers are placed.

19835. (a) The division, by regulation, shall provide for the formulation of a list of persons who are to be excluded or ejected from any gambling establishment. The list may include any person whose presence in the establishment is determined by the division to pose a threat to the interests of this state or to controlled gambling, or both.

(b) In making the determination described in subdivision (a), the division may consider, but is not limited to considering, any of the following:

(1) Prior conviction of a crime that is a felony in this state or under the laws of the United States, a crime involving moral turpitude, or a violation of the gambling laws of this or any other state.

(2) The violation of, or conspiracy to violate, the provisions of this chapter relating to the failure to disclose an interest in a gambling establishment for which the person is required to obtain a license, or the willful evasion of fees.

(3) A notorious or unsavory reputation that would adversely affect public confidence and trust that the gambling industry is free from criminal or corruptive elements.

(4) An order of exclusion or ejection from a racing inclosure issued by the California Horse Racing Board.

(c) The division shall distribute the list of persons who are to be excluded or ejected from any gambling establishment to all owner licensees and shall provide notice to any persons included on the list.

(d) The division shall adopt regulations establishing procedures for hearing of petitions by persons who are ejected or excluded from licensed premises pursuant to this section or pursuant to Section 19835.5.

(e) The board may revoke, limit, condition, or suspend the license of an owner, or fine an owner licensee, if that licensee knowingly fails to exclude or eject from the gambling establishment of that licensee any person included on the list of persons to be excluded or ejected.

19835.5. (a) A licensee may remove from his or her licensed premises any person who, while on the premises:

(1) Is a disorderly person, as defined by Section 647 of the Penal Code.

(2) Interferes with a lawful gambling operation.

(3) Solicits or engages in any act of prostitution.
(4) Begs, is boisterous, or is otherwise offensive to other persons.
(5) Commits any public offense.
(6) Is intoxicated.
(7) Is a person who the division, by regulation, has determined should be excluded from licensed gambling establishments in the public interest.
(b) Nothing in this section shall be deemed, expressly or impliedly, to preclude a licensee from exercising the right to deny access to or to remove any person from its premises or property for any reason the licensee deems appropriate.
19836. This article shall remain in effect only until the occurrence of the events specified in Section 66 of the act that added this chapter, and as of that date is repealed, unless a later enacted statute, which is enacted before the occurrence of the events specified in Section 66 of the act that added this chapter, deletes or extends that date.

## Article 4. Licensing

19840. Every person who, either as owner, lessee, or employee, whether for hire or not, either solely or in conjunction with others, deals, operates, carries on, conducts, maintains, or exposes for play any controlled game in this state, or who receives, directly or indirectly, any compensation or reward, or any percentage or share of the money or property played, for keeping, running, or carrying on any controlled game in this state, shall obtain, and thereafter maintain a valid state gambling license, key employee license, or work permit, as specified in this chapter. In any criminal prosecution for violation of this section, the punishment shall be as provided in Section 337j of the Penal Code.
19840.5. (a) The owner of a gambling enterprise shall apply for and obtain a state gambling license.
(b) Other persons who also obtain a state gambling license, or key employee license, as required by this chapter, shall not receive a separate license certificate, but the license of every such person shall be endorsed on the license that is issued to the owner of the gambling enterprise.
19841. (a) An owner of a gambling enterprise that is not a natural person shall not be eligible for a state gambling license unless each of the following persons individually applies for and obtains a state gambling license:
(1) If the owner is a corporation, then each officer, director, and shareholder, other than a holding or intermediary company, of the owner. The foregoing does not apply to an owner that is either a publicly traded racing association or a qualified racing association.
(2) If the owner is a publicly traded racing association, then each officer, director, and owner, other than an institutional investor, of

5 percent or more of the outstanding shares of the publicly traded corporation.

(3) If the owner is a qualified racing association, then each officer, director, and shareholder, other than an institutional investor, of the subsidiary corporation and any owner, other than an institutional investor, of 5 percent or more of the outstanding shares of the publicly traded corporation.

(4) If the owner is a partnership, then every general and limited partner of, and every trustee or person, other than a holding or intermediary company, having or acquiring a direct or beneficial interest in, that partnership owner.

(5) If the owner is a trust, then the trustee, every beneficiary, and, in the discretion of the division, the trustor of the trust.

(6) If the owner is a business organization other than a corporation, partnership, or trust, then all those persons as the division may require, consistent with this chapter.

(7) Each person who receives, or is to receive, any percentage share of the revenue earned by the owner from gambling activities.

(8) Every employee, agent, guardian, personal representative, lender, or holder of indebtedness of the owner who, in the judgment of the division, has the power to exercise a significant influence over the gambling operation.

(b) This section shall remain in effect only until the occurrence of one of the events specified in Section 66 of the act that added this chapter, and as of that date is repealed, unless a later enacted statute, which is enacted before the occurrence of one of the events specified in Section 66 of the act that added this chapter, deletes or extends that date.

19842. (a) The division, by regulation or order, may require that the following persons register with the division, apply for a finding of suitability, or apply for a gambling license:

(1) Any person who furnishes any services or any property to a gambling enterprise under any arrangement whereby that person receives payments based on earnings, profits, or receipts from controlled gambling.

(2) Any person who owns an interest in the premises of a licensed gambling establishment or in real property used by a licensed gambling establishment.

(3) Any person who does business on the premises of a licensed gambling establishment.

(4) Any person who is an independent agent of, or does business with, a gambling enterprise as a ticket purveyor, a tour operator, the operator of a bus program, or the operator of any other type of travel program or promotion operated with respect to a licensed gambling establishment.

(5) Any person who provides any goods or services to a gambling enterprise for compensation that the division finds to be grossly disproportionate to the value of the goods or services provided.

(6) Every person who, in the judgment of the division, has the power to exercise a significant influence over the gambling operation.

(b) If a publicly traded corporation is engaged in activities described in paragraphs (2), (3), and (4) of subdivision (a), the division may require the corporation and the following other persons to apply for and obtain a license or finding of suitability:

(1) Any officer or director.

(2) Any owner, other than an institutional investor, of 5 percent or more of the outstanding shares of the corporation.

(c) This section shall remain in effect only until the occurrence of one of the events specified in Section 66 of the act that added this chapter, and as of that date is repealed, unless a later enacted statute, which is enacted before the occurrence of one of the events specified in Section 66 of the act that added this chapter, deletes or extends that date.

19844. (a) Every key employee shall apply for and obtain a key employee license.

(b) Licenses issued to key employees shall be for specified positions only, and those positions shall be enumerated in the endorsement described in subdivision (b) of Section 19840.5.

(c) No person may be issued a key employee license unless the person would qualify for a state gambling license.

(d) No person may be issued a key employee license unless the person is a resident of this state.

19846. (a) Every person who, by statute or regulation, is required to hold a state license shall obtain the license prior to engaging in the activity or occupying the position with respect to which the license is required. Every person who, by order of the division, is required to apply for a gambling license or a finding of suitability shall file the application within 30 calendar days after receipt of the order.

(b) This section shall remain in effect only until the occurrence of one of the events specified in Section 66 of the act that added this chapter, and as of that date is repealed, unless a later enacted statute, which is enacted before the occurrence of one of the events specified in Section 66 of the act that added this chapter, deletes or extends that date.

19847. (a) Any person who the division determines is qualified to receive a state license, having due consideration for the proper protection of the health, safety, and general welfare of the residents of the State of California and the declared policy of this state, may be issued a license. The burden of proving his or her qualifications to receive any license is on the applicant.

(b) An application to receive a license constitutes a request for a determination of the applicant's general character, integrity, and ability to participate in, engage in, or be associated with, controlled gambling.

(c) In reviewing an application for any gambling license, the division shall consider whether issuance of the license is inimical to public health, safety, or welfare, and whether issuance of the license will undermine public trust that the gambling operations with respect to which the license would be issued are free from criminal and dishonest elements and would be conducted honestly.

(d) This section shall remain in effect only until the occurrence of one of the events specified in Section 66 of the act that added this chapter, and as of that date is repealed, unless a later enacted statute, which is enacted before the occurrence of one of the events specified in Section 66 of the act that added this chapter, deletes or extends that date.

19848. No gambling license shall be issued unless, based on all of the information and documents submitted, the division is satisfied that the applicant is all of the following:

(a) A person of good character, honesty, and integrity.

(b) A person whose prior activities, criminal record, if any, reputation, habits, and associations do not pose a threat to the public interest of this state, or to the effective regulation and control of controlled gambling, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of controlled gambling or in the carrying on of the business and financial arrangements incidental thereto.

(c) A person that is in all other respects, qualified to be licensed as provided in this chapter.

(d) This section shall remain in effect only until the occurrence of one of the events specified in Section 66 of the act that added this chapter, and as of that date is repealed, unless a later enacted statute, which is enacted before the occurrence of one of the events specified in Section 66 of the act that added this chapter, deletes or extends that date.

19848.5. (a) Except as provided in subdivision (b), a person shall be deemed to be unsuitable to hold a state gambling license to own a gambling establishment if the person, or any partner, officer, director, or shareholder of the person, has any financial interest in any business or organization that is engaged in any form of gambling prohibited by Section 330 of the Penal Code, whether within or without this state.

(b) Subdivision (a) does not apply to a publicly traded racing association, a qualified racing association, or any person who is licensed pursuant to paragraphs (2) or (3) of subdivision (a) of Section 19841.

19850. (a) The division shall deny a license to any applicant who is disqualified for any of the following reasons:

(1) Failure of the applicant to clearly establish eligibility and qualification in accordance with this chapter.

(2) Failure of the applicant to provide information, documentation, and assurances required by this chapter or requested

by the director, or failure of the applicant to reveal any fact material to qualification, or the supplying of information that is untrue or misleading as to a material fact pertaining to the qualification criteria.

(3) Conviction of the applicant for any crime punishable as a felony.

(4) Conviction of the applicant for any misdemeanor involving dishonesty or moral turpitude within the 10-year period immediately preceding the submission of the application, unless the applicant has been granted relief pursuant to Section 1203.4, 1203.4a, or 1203.45 of the Penal Code.

(5) Association of the applicant with criminal profiteering activity or organized crime, as defined by Section 186.2 of the Penal Code.

(6) Contumacious defiance by the applicant of any legislative investigatory body, or other official investigatory body of any state or of the United States, when that body is engaged in the investigation of crimes relating to gambling; official corruption related to gambling activities; or criminal profiteering activity or organized crime, as defined by Section 186.2 of the Penal Code.

(7) The applicant is less than 21 years of age.

(b) This section shall remain in effect only until the occurrence of one of the events specified in Section 66 of the act that added this chapter, and as of that date is repealed, unless a later enacted statute, which is enacted before the occurrence of one of the events specified in Section 66 of the act that added this chapter, deletes or extends that date.

19851. (a) The division shall deny a gambling license with respect to any gambling establishment that is located in a city, county, or city and county that does not have an ordinance governing all of the following matters:

(1) The hours of operation of gambling establishments.

(2) Patron security and safety in and around the gambling establishments.

(3) The location of gambling establishments.

(4) Wagering limits in gambling establishments.

(5) The number of gambling tables in each gambling establishment and in the jurisdiction.

(b) In any city, county, or city and county in which the local gambling ordinance does not govern the matters specified in subdivision (a), any amendment to the ordinance to govern those matters is not subject to Section 19950.1.

(c) This section shall remain in effect only until the occurrence of one of the events specified in Section 66 of the act that added this chapter, and as of that date is repealed, unless a later enacted statute, which is enacted before the occurrence of one of the events specified in Section 66 of the act that added this chapter, deletes or extends that date.

19852. (a) In addition to other grounds stated in this chapter, the division shall consider denying a gambling license for any of the following reasons:

(1) If issuance of the license with respect to the proposed gambling establishment or expansion would tend unduly to create law enforcement problems in a city, county, or city and county other than the city, county, or city and county that has regulatory jurisdiction over the applicant's premises.

(2) If an applicant fails to conduct an economic feasibility study that demonstrates to the satisfaction of the division that the proposed gambling establishment will be economically viable, and that the owners have sufficient resources to make the gambling establishment successful. The division shall hold a public hearing for the purposes of reviewing the feasibility study.

(3) If issuance of the license is sought in respect to a new gambling establishment, or the expansion of an existing gambling establishment, that is to be located or is located near an existing school, an existing building used primarily as a place of worship, an existing playground or other area of juvenile congregation, an existing hospital, convalescence facility, or near another similarly unsuitable area, as determined by regulation of the division, which is located in a city, county, or city and county other than the city, county, or city and county that has regulatory jurisdiction over the applicant's gambling premises.

(b) For the purposes of this section, "expansion" means an increase of 25 percent or more in the number of authorized gambling tables in a gambling establishment, based on the number of gambling tables for which a license was initially issued pursuant to this chapter.

(c) This section shall remain in effect only until the occurrence of one of the events specified in Section 66 of the act that added this chapter, and as of that date is repealed, unless a later enacted statute, which is enacted before the occurrence of one of the events specified in Section 66 of the act that added this chapter, deletes or extends that date.

19852.1. A publicly traded racing association or a qualified racing association shall be allowed to operate only one gaming club, and the gaming club shall be located on the same premises as the entity's racetrack.

19853. (a) Application for a state license or other division action shall be made on forms furnished by the division.

(b) The application for a gambling license shall include all of the following:

(1) The name of the proposed licensee.

(2) The name and location of the proposed gambling establishment.

(3) The gambling games proposed to be conducted.

(4) The names of all persons directly or indirectly interested in the business and the nature of the interest.

(5) A description of the proposed gambling establishment and operation.

(6) Any other information and details the division may require in order to discharge its duty properly.

(c) This section shall remain in effect only until the occurrence of one of the events specified in Section 66 of the act that added this chapter, and as of that date is repealed, unless a later enacted statute, which is enacted before the occurrence of one of the events specified in Section 66 of the act that added this chapter, deletes or extends that date.

19853.5. The division shall furnish to the applicant supplemental forms, which the applicant shall complete and file with the division. These supplemental forms shall require, but shall not be limited to requiring, complete information and details with respect to the applicant's personal history, habits, character, criminal record, business activities, financial affairs, and business associates, covering at least a 10-year period immediately preceding the date of filing of the application.

19854. (a) An applicant for licensing or for any approval or consent required by this chapter, shall make full and true disclosure of all information to the division as necessary to carry out the policies of this state relating to licensing, registration, and control of gambling.

(b) This section shall remain in effect only until the occurrence of one of the events specified in Section 66 of the act that added this chapter, and as of that date is repealed, unless a later enacted statute, which is enacted before the occurrence of one of the events specified in Section 66 of the act that added this chapter, deletes or extends that date.

19855. (a) An application for a license shall be accompanied by the deposit of a sum of money that, in the judgment of the director, will be adequate to pay the anticipated costs and charges incurred in the investigation and processing of the application. The director shall adopt a schedule of costs and charges of investigation for use as guidelines in fixing the amount of any required deposit under this section.

(b) During an investigation, the director may require an applicant to deposit any additional sums as are required by the division to pay final costs and charges of the investigation.

(c) Any money received from an applicant in excess of the costs and charges incurred in the investigation or the processing of the application shall be refunded pursuant to regulations adopted by the division. At the conclusion of the investigation, the director shall provide the applicant a written, itemized accounting of the costs and charges so incurred.

19856. (a) Within a reasonable time after the filing of an application and any supplemental information the division may require, and the deposit of any fee required pursuant to Section

19855, the division shall commence its investigation of the applicant and, for that purpose, may conduct any proceedings it deems necessary. To the extent practicable, all applications shall be acted upon within 180 calendar days of the date of submission of a completed application. If an investigation has not been concluded within 180 days after the date of submission of a completed application, the division shall provide the applicant with a conditional license. Issuance of a conditional license creates no vested right to the issuance of a state gambling license, and the applicant retains the burden of proving his or her qualifications for that license.

(b) This section shall remain in effect only until the occurrence of one of the events specified in Section 66 of the act that added this chapter, and as of that date is repealed, unless a later enacted statute, which is enacted before the occurrence of one of the events specified in Section 66 of the act that added this chapter, deletes or extends that date.

19857. (a) A request for withdrawal of any application may be made at any time prior to final action upon the application by the director by the filing of a written request to withdraw with the division. The division shall not grant the request unless the applicant has established that withdrawal of the application would be consistent with the public interest and the policies of this chapter. If a request for withdrawal is denied, the division may go forward with its investigation and may act upon the application as if no request for withdrawal had been made. If a request for withdrawal is granted with prejudice, the applicant thereafter shall be ineligible to renew its application until the expiration of one year from the date of the withdrawal. Unless the division otherwise directs, no fee or other payment relating to any application is refundable by reason of withdrawal of an application.

(b) This section shall remain in effect only until the occurrence of one of the events specified in Section 66 of the act that added this chapter, and as of that date is repealed, unless a later enacted statute, which is enacted before the occurrence of one of the events specified in Section 66 of the act that added this chapter, deletes or extends that date.

19858. (a) The division may either deny the application or grant a license to an applicant who it determines to be qualified to hold the license.

(b) When the division grants an application for a license or approval, the division may limit or place restrictions thereon as it may deem necessary in the public interest, consistent with the policies described in this chapter.

(c) Prior to denying a license or issuing a license with limitations, conditions, or restrictions, the director, or the director's designee, shall meet with the applicant, or the applicant's duly authorized representative, and inform the applicant generally of the basis for the denial, limitations, conditions, or restrictions.

(d) If a license is denied, the director shall prepare and serve on the applicant a written statement of reasons for the denial.

(e) Within 10 business days after the division mails a notice of action on an application, the applicant may file a written objection thereto with the board. Upon receipt of a timely objection, in proper form, the board shall meet to consider the application. The meeting shall commence within 30 days after the filing of the written objection.

(f) This section shall remain in effect only until the occurrence of one of the events specified in Section 66 of the act that added this chapter, and as of that date is repealed, unless a later enacted statute, which is enacted before the occurrence of one of the events specified in Section 66 of the act that added this chapter, deletes or extends that date.

19858.5. (a) The board meeting described in Section 19858 shall be conducted in accordance with regulations of the board and as follows:

(1) Oral evidence shall be taken only upon oath or affirmation.

(2) Each party shall have all of the following rights:

(A) To call and examine witnesses.

(B) To introduce exhibits relevant to the issues of the case.

(C) To cross-examine opposing witnesses on any matters relevant to the issues, even though the matter was not covered on direct examination.

(D) To impeach any witness, regardless of which party first called the witness to testify.

(E) To offer rebuttal evidence.

(3) If the applicant does not testify in his or her own behalf, he or she may be called and examined as if under cross-examination.

(4) The meeting need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence may be considered, and is sufficient in itself to support a finding, if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule that might make improper the admission of that evidence over objection in a civil action.

(b) Nothing in this section confers upon an applicant a right to discovery of the division's investigative reports or to require disclosure of any document or information the disclosure of which is otherwise prohibited by any other provision of this chapter.

19858.7. (a) No member of the board may communicate ex parte, directly or indirectly, with any applicant, or any agent, representative, or person acting on behalf of an applicant, or any agent or employee of the division, upon the merits of an application for a license, permit, registration, or approval while the application is pending disposition before the division or the board.

(b) No employee or agent of the division, applicant, or any agent, representative, or person acting on behalf of an applicant, and no

person who has a direct or indirect interest in the outcome of a proceeding to consider an application for a license, permit, registration, or approval may communicate ex parte, directly or indirectly, with any member of the board, upon the merits of the application while the application is pending disposition before the board.

(c) The receipt by a member of the board of an ex parte communication prohibited by subdivision (b) may provide the basis for disqualification of that member or the denial of the application. The board shall adopt regulations to implement this subdivision.

(d) For the purposes of this section, "ex parte" means a communication without notice and opportunity for all parties to participate in the communication.

(e) This section shall remain in effect only until the occurrence of one of the events specified in Section 66 of the act that added this chapter, and as of that date is repealed, unless a later enacted statute, which is enacted before the occurrence of one of the events specified in Section 66 of the act that added this chapter, deletes or extends that date.

19859. No license may be assigned or transferred either in whole or in part.

19860. (a) Subject to subdivision (b) of Section 19840.5, the division or the board, as the case may be, shall issue and deliver to the applicant a license entitling the applicant to engage in the activity for which the license is issued, together with an enumeration of any specific terms and conditions of the license if both of the following conditions have been met:

(1) The division or the board is satisfied that the applicant is eligible and qualified to receive the license.

(2) All license fees required by statute and by regulations of the division have been paid.

(b) This section shall remain in effect only until the occurrence of one of the events specified in Section 66 of the act that added this chapter, and as of that date is repealed, unless a later enacted statute, which is enacted before the occurrence of one of the events specified in Section 66 of the act that added this chapter, deletes or extends that date.

19861. An owner's gambling license shall be posted at all times in a conspicuous place in the area where gambling is conducted in the establishment for which the license is issued until it is replaced by a succeeding license.

19862. (a) Subject to the power of the division or the board to deny, revoke, suspend, condition, or limit any license, as provided in this chapter, a license shall be renewed annually by the division from the date of issuance, upon proper application for renewal and payment of state license fees as required by statute or regulation.

(b) An application for renewal of a gambling license shall be filed by the owner licensee with the division no later than 120 calendar

days prior to the expiration of the current license, and all license fees shall be paid to the division on or before the expiration of the current license. The division shall act upon any application for renewal prior to the date of expiration of the current license, and shall provide, by regulation, for notifying licensees of impending license expiration dates. Upon renewal of any owner license, the division shall issue an appropriate renewal certificate or validating device or sticker.

(c) Unless the division determines otherwise, renewal of an owner's gambling license shall be deemed to effectuate the renewal of every other gambling license endorsed thereon.

(d) In addition to the penalties provided by law, any owner licensee who deals, operates, carries on, conducts, maintains, or exposes for play any gambling game after the expiration date of the gambling license is liable to the state for all license fees and penalties that would have been due upon renewal.

(e) If an owner licensee fails to renew the gambling license as provided in this chapter, the division may order the immediate closure of the premises and a cessation of all gambling activity therein until the license is renewed.

(f) This section shall remain in effect only until the occurrence of one of the events specified in Section 66 of the act that added this chapter, and as of that date is repealed, unless a later enacted statute, which is enacted before the occurrence of one of the events specified in Section 66 of the act that added this chapter, deletes or extends that date.

19862.5. The failure of an owner licensee to file an application for renewal before the date specified in this chapter may be deemed a surrender of the license. A license has not been renewed within the meaning of this section until all required renewal fees have been paid.

19863. (a) Neither an owner licensee, nor a California affiliate of an owner licensee, shall enter into, without prior approval of the division, any contract or agreement with a person who is denied a license, or whose license is suspended or revoked by the division, or with any business enterprise under the control of that person, after the date of receipt of notice of the action by the division.

(b) An owner licensee or an affiliate of the owner licensee shall not employ, without prior approval of the division, any person in any capacity for which he or she is required to be licensed, if the person has been denied a license, or if his or her license has been suspended or revoked after the date of receipt of notice of the action by the division. Neither an owner licensee, nor a California affiliate of an owner licensee, without prior approval of the division, shall enter into any contract or agreement with a person whose application has been withdrawn with prejudice, or with any business enterprise under the control of that person, for the period of time during which the person is prohibited from filing a new application for licensure.

(c) (1) If an employee who is required to be licensed pursuant to this chapter fails to apply for a license within the time specified by regulation, is denied a license, or has his or her license revoked by the division, the employee shall be terminated in any capacity in which he or she is required to be licensed and he or she shall not be permitted to exercise a significant influence over the gambling operation, or any part thereof, upon being notified of that action.

(2) If an employee who is required to be licensed pursuant to this chapter has his or her license suspended, the employee shall be suspended in any capacity in which he or she is required to be licensed and shall not be permitted to exercise a significant influence over the gambling operation, or any part thereof, during the period of suspension, upon being notified of that action.

(3) If the owner licensee designates another employee to replace the employee whose employment was terminated, the owner licensee shall promptly notify the division and shall require the newly designated employee to apply for a license.

(d) An owner licensee or an affiliate of the owner licensee shall not pay to a person whose employment has been terminated pursuant to subdivision (c) any remuneration for any service performed in any capacity in which the person is required to be licensed, except for amounts due for services rendered before the date of receipt of notice of the action by the division. Neither an owner licensee, nor an affiliate thereof, during the period of suspension, shall pay to a person whose employment has been suspended pursuant to subdivision (c), any remuneration for any service performed in any capacity in which the person is required to be licensed, except for amounts due for services rendered before the date of receipt of notice of the action by the division.

(e) Except as provided in subdivision (c), a contract or agreement for the provision of services or property to an owner licensee or an affiliate thereof, or for the conduct of any activity at a gambling establishment, which is to be performed by a person required by this chapter or by the division to be licensed, shall be terminated upon a suspension or revocation of the person's license.

(f) In any case in which a contract or agreement for the provision of services or property to an owner licensee or an affiliate thereof, or for the conduct of any activity at a gambling establishment, is to be performed by a person required by this chapter or by the division to be licensed, the contract shall be deemed to include a provision for its termination without liability on the part of the owner licensee or its duly registered holding company upon a suspension or revocation of the person's license. In any action brought by the division to terminate a contract pursuant to subdivision (c) or (e), it shall not be a defense that the agreement does not expressly include the provision described in this subdivision, and the lack of express inclusion of the provision in the agreement shall not be a basis for enforcement of the contract by a party thereto.

(g) This section shall remain in effect only until the occurrence of one of the events specified in Section 66 of the act that added this chapter, and as of that date is repealed, unless a later enacted statute, which is enacted before the occurrence of one of the events specified in Section 66 of the act that added this chapter, deletes or extends that date.

19864. (a) With regard to a person who has had his or her application for a license denied by the division, all of the following shall apply:

(1) Except as provided in paragraph (3), the person shall not be entitled to profit from his or her investment in any business entity that has applied for or been granted a state license.

(2) The person shall not retain his or her interest in a business entity described in paragraph (1) beyond that period prescribed by the division.

(3) The person shall not accept more for his or her interest in a business entity described in paragraph (1) than he or she paid for it, or the market value on the date of the denial of the license or registration, whichever is higher.

(4) Nothing in this section shall be construed as a restriction or limitation on the powers of the division specified in this chapter.

(b) This section shall remain in effect only until the occurrence of one of the events specified in Section 66 of the act that added this chapter, and as of that date is repealed, unless a later enacted statute, which is enacted before the occurrence of one of the events specified in Section 66 of the act that added this chapter, deletes or extends that date.

## Article 5. Licensing of Corporations

19870. In addition to the requirements of Section 19841, in order to be eligible to receive a gambling license as the owner of a gambling enterprise, a corporation shall comply with all of the following requirements:

(a) Maintain an office of the corporation in the gambling establishment.

(b) Comply with all of the requirements of the laws of this state pertaining to corporations.

(c) Maintain, in the corporation's principal office in California or in the gambling establishment, a ledger that meets both of the following conditions:

(1) At all times reflects the ownership of record of every class of security issued by the corporation.

(2) Is available for inspection by the division at all reasonable times without notice.

(d) Register as a corporation with the division and supply the following supplemental information to the division:

(1) The organization, financial structure, and nature of the business to be operated, including the names, personal and criminal history, and fingerprints of all officers, directors, and key employees, and the names, addresses, and number of shares held by all stockholders of record.

(2) The rights and privileges acquired by the holders of different classes of authorized securities, including debentures.

(3) The terms on which securities are to be offered.

(4) The terms and conditions on all outstanding loans, mortgages, trust deeds, pledges, or any other indebtedness or security device.

(5) The extent of the equity security holdings in the corporation of all officers, directors, and underwriters, and their remuneration as compensation for services, in the form of salary, wages, fees, or otherwise.

(6) The amount of remuneration to persons other than directors and officers in excess of fifty thousand dollars ($50,000) per annum.

(7) Bonus and profit-sharing arrangements.

(8) Management and service contracts.

(9) Options existing, or to be created, in respect of their securities or other interests.

(10) Financial statements for at least three fiscal years preceding the year of registration, or, if the corporation has not been in existence for a period of three years, financial statements from the date of its formation. All financial statements shall be prepared in accordance with generally accepted accounting principles and audited by a licensee of the State Board of Accountancy.

(11) Any further financial data that the division, with the approval of the board, may deem necessary or appropriate for the protection of the state.

(12) An annual profit-and-loss statement and an annual balance sheet, and a copy of its annual federal income tax return, within 30 calendar days after that return is filed with the Internal Revenue Service.

19871. (a) No corporation is eligible to receive a license to own a gambling enterprise unless the conduct of controlled gambling is among the purposes stated in its articles of incorporation and the articles of incorporation have been submitted to and approved by the division.

(b) Beginning July 1, 1998, the Secretary of State shall not accept for filing any articles of incorporation of any corporation that include as a stated purpose the conduct of controlled gambling, or any amendment thereto, or any amendment that adds this purpose to articles of incorporation already filed, unless the articles have, or amendment has, been approved by the division.

(c) This section shall remain in effect only until the occurrence of one of the events specified in Section 66 of the act that added this chapter, and as of that date is repealed, unless a later enacted statute, which is enacted before the occurrence of one of the events specified

in Section 66 of the act that added this chapter, deletes or extends that date.

19872. (a) If at any time the division denies a license to an individual owner of any security issued by a corporation that applies for or holds an owner license, the owner of the security shall immediately offer the security to the issuing corporation for purchase. The corporation shall purchase the security so offered, for cash in an amount not greater than fair market value, within 30 calendar days after the date of the offer.

(b) Beginning upon the date when the division serves notice of the denial upon the corporation, it is unlawful for the denied security owner to do any of the following:

(1) Receive any dividend or interest upon any security described in subdivision (a).

(2) Exercise, directly or through any trustee or nominee, any voting right conferred by any security described in subdivision (a).

(3) Receive any remuneration in any form from the corporation for services rendered or for any other purpose.

(c) Every security issued by a corporate owner licensee shall bear a statement, on both sides of the certificate evidencing the security, of the restrictions imposed by this section.

(d) This section shall remain in effect only until the occurrence of one of the events specified in Section 66 of the act that added this chapter, and as of that date is repealed, unless a later enacted statute, which is enacted before the occurrence of one of the events specified in Section 66 of the act that added this chapter, deletes or extends that date.

19873. (a) To the extent required by this chapter, officers and directors, shareholders, lenders, holders of evidence of indebtedness, underwriters, agents, or employees of a corporate owner licensee shall be licensed individually. The corporation shall require these persons to apply for a gambling license, and shall notify the division of every change of corporate officers, directors, or key employees within 10 business days after the change. An officer, director, or key employee who is required to apply for a license shall apply for the license within 30 calendar days after he or she becomes an officer, director, or key employee.

(b) The corporation shall immediately remove any officer or director required to apply for a license from any office or directorship if any of the following apply to that officer or director:

(1) He or she fails to apply for the license within 30 calendar days after becoming an officer or director.

(2) He or she is denied a license.

(3) His or her license is revoked.

(c) If the license of any officer or director is suspended, the corporation, immediately and for the duration of the suspension, shall suspend that officer or director.

(d) If any shareholder who is required to apply for a gambling license fails to apply for the license within the time required, the shareholder shall be deemed to have been denied a license for purposes of subdivision (b) of Section 19872.

(e) If any person, other than an officer, director, or shareholder, who is required to apply for a gambling license fails to do so, the failure may be deemed to be a failure of the corporate owner licensee to require the application.

Article 6. Licensing of Limited Partnerships

19880. In addition to the requirements of Section 19841, in order to be eligible to receive a gambling license to own a gambling enterprise, a limited partnership shall comply with all of the following requirements:

(a) Be formed under the laws of this state.

(b) Maintain an office of the limited partnership in the gambling establishment.

(c) Comply with all of the requirements of the laws of this state pertaining to limited partnerships.

(d) Maintain a ledger in the principal office of the limited partnership in California that shall meet both of the following conditions:

(1) At all times reflects the ownership of all interests in the limited partnership.

(2) Be available for inspection by the division at all reasonable times without notice.

(e) Register with the division and supply the following supplemental information to the division:

(1) The organization, financial structure, and nature of the business to be operated, including the names, personal history, and fingerprints of all general partners and key employees, and the name, address, and interest of each limited partner.

(2) The rights, privileges, and relative priorities of limited partners as to the return of contributions to capital, and the right to receive income.

(3) The terms on which limited partnership interests are to be offered.

(4) The terms and conditions on all outstanding loans, mortgages, trust deeds, pledges, or any other indebtedness or security device.

(5) The extent of the holding in the limited partnership of all underwriters, and their remuneration as compensation for services, in the form of salary, wages, fees, or otherwise.

(6) The remuneration to persons other than general partners in excess of fifty thousand dollars ($50,000) per annum.

(7) Bonus and profit-sharing arrangements.

(8) Management and service contracts.

(9) Options existing or to be created.

(10) Financial statements for at least three fiscal years preceding the year of registration, or, if the limited partnership has not been in existence for a period of three years, financial statements from the date of its formation. All financial statements shall be prepared in accordance with generally accepted accounting principles and audited by a licensee of the State Board of Accountancy in accordance with generally accepted auditing standards.

(11) Any further financial data that the division reasonably deems necessary or appropriate for the protection of the state.

(12) An annual profit and loss statement and an annual balance sheet, and a copy of its annual federal income tax return, within 30 calendar days after the return is filed with the Internal Revenue Service.

19881. No limited partnership is eligible to receive a license to own a gambling enterprise unless the conduct of gambling is among the purposes stated in the certificate of limited partnership.

19882. (a) The purported sale, assignment, transfer, pledge, or other disposition of any interest in a limited partnership that holds a gambling license, or the grant of an option to purchase the interest, is void unless approved in advance by the division.

(b) If at any time the division denies a license to an individual owner of any interest described in subdivision (a), the division shall immediately notify the partnership of that fact. The limited partnership, within 30 calendar days from the date it receives the notice from the division, shall return to the denied owner of the interest, in cash, the amount of his or her capital account as reflected on the books of the partnership.

(c) Beginning upon the date when the division serves a notice of denial upon the limited partnership, it is unlawful for the denied owner of the interest to do any of the following:

(1) Receive any share of the revenue or interest upon the limited partnership interest.

(2) Exercise, directly or through any trustee or nominee, any voting right conferred by that interest.

(3) Receive any remuneration in any form from the limited partnership, for services rendered or for any other purpose.

(d) Every certificate of limited partnership of any limited partnership holding a gambling license shall contain a statement of the restrictions imposed by this section.

(e) This section shall remain in effect only until the occurrence of one of the events specified in Section 66 of the act that added this chapter, and as of that date is repealed, unless a later enacted statute, which is enacted before the occurrence of one of the events specified in Section 66 of the act that added this chapter, deletes or extends that date.

19883. (a) To the extent required by this chapter, general partners, limited partners, lenders, holders of evidence of indebtedness, underwriters, agents, or employees of a limited

partnership that holds or applies for a license to own a gambling enterprise shall be licensed individually. The limited partnership shall require these persons to apply for and obtain a gambling license. A person who is required to be licensed by this section as a general or limited partner shall not hold that position until he or she secures the required approval of the division. A person who is required to be licensed pursuant to a decision of the division shall apply for a license within 30 days after the division requests him or her to do so.

(b) This section shall remain in effect only until the occurrence of one of the events specified in Section 66 of the act that added this chapter, and as of that date is repealed, unless a later enacted statute, which is enacted before the occurrence of one of the events specified in Section 66 of the act that added this chapter, deletes or extends that date.

## Article 7. Restrictions on Certain Transactions

19900. (a) Except as may be provided by regulation of the division, the following security interests shall not be enforced without the prior approval of the division and compliance with regulations adopted pursuant to subdivision (b):

(1) In a security issued by a corporation that is a holder of a gambling license in this state, other than the security of a publicly traded racing association where a creditor acquires control of the security by forfeiture.

(2) In a security issued by a holding company that is not a publicly traded corporation.

(3) In a security issued by a partnership that is a holder of a gambling license in this state.

(b) The division shall adopt regulations establishing the procedure for the enforcement of a security interest. Any remedy provided by the regulations for the enforcement of the security interest is in addition to any other remedy provided by law.

19901. It is unlawful for any person to sell, purchase, lease, hypothecate, borrow or loan money, or create a voting trust agreement or any other agreement of any sort to, or with, any licensee in connection with any controlled gambling operation licensed under this chapter or with respect to any portion of the gambling operation, except in accordance with the regulations of the division.

19902. When any person contracts to sell or lease any property or interest in property, real or personal, under circumstances that require the approval or licensing of the purchaser or lessee by the division pursuant to subdivision (a) of Section 19842, the contract shall not specify a closing date for the transaction that is earlier than the expiration of 90 calendar days after the submission of the completed application for approval for licensing. Any provision of a contract that specifies an earlier closing date is void for all purposes,

but the invalidity does not affect the validity of any other provision of the contract.

19903. When any person contracts to sell or lease any property or interest in property, real or personal, under circumstances that require the approval or licensing of the purchaser or lessee by the division pursuant to subdivision (a) of Section 19842, the contract shall contain a provision satisfactory to the division regarding responsibility for the payment of any fees due pursuant to any subsequent deficiency determinations made under this chapter that shall encompass any period of time before the closing date of the transaction.

19904. The purported sale, assignment, transfer, pledge, or other disposition of any security issued by a corporation that holds a gambling license, or the grant of an option to purchase that security, is void unless approved in advance by the division.

19905. Every owner licensee that is involved in a transaction for the extension or redemption of credit by the licensee, or for the payment, receipt, or transfer of coin, currency, or other monetary instruments, as specified by the division, in an amount, denomination, or amount and denomination, or under circumstances prescribed by regulations, and any other participant in the transaction, as specified by the division, shall, if required by regulation, make and retain a record of, or file with the division a report on, the transaction, at the time and in the manner prescribed by regulations.

19906. This article shall remain in effect only until the occurrence of one of the events specified in Section 66 of the act that added this chapter, and as of that date is repealed, unless a later enacted statute, which is enacted before the occurrence of one of the events specified in Section 66 of the act that added this chapter, deletes or extends that date.

## Article 8. Work Permits

19910. The Legislature finds that to protect and promote the health, safety, good order, and general welfare of the inhabitants of this state, and to carry out the policy declared by this chapter, it is necessary that the division ascertain and keep itself informed of the identity, prior activities, and present location of all gambling enterprise employees and independent agents in the State of California, and when appropriate to do so, approve persons for employment in gambling establishments as provided in this article.

19910.4. No person under the age of 21 years shall be eligible for a work permit and no permit shall be issued to a person under the age of 21 years.

19910.5. (a) (1) A person shall not be employed as a gambling enterprise employee, or serve as an independent agent, except as

provided in paragraph (2), unless he or she is the holder of one of the following:

(A) A valid work permit issued in accordance with the applicable ordinance or regulations of the city, county, or city and county in which his or her duties are performed.

(B) A work permit issued by the division.

(2) An independent agent is not required to hold a work permit if he or she is not a resident of this state and has registered with the division in accordance with regulations.

(b) A work permit shall not be issued by any city, county, or city and county to any person who would be disqualified from holding a state gambling license for the reasons stated in paragraphs (3) to (6), inclusive, of subdivision (a) of Section 19850.

(c) The division may object to the issuance of a work permit by a city, county, or city and county for any cause deemed reasonable by the division, and if the division objects to issuance of a work permit, the work permit shall be denied.

(1) The division shall adopt regulations specifying particular grounds for objection to issuance of, or refusal to issue, a work permit.

(2) The ordinance of any city, county, or city and county relating to issuance of work permits shall permit the division to object to the issuance of any permit.

(3) Any person whose application for a work permit has been denied because of an objection by the division may apply to the division for an evidentiary hearing in accordance with regulations.

(d) Application for a work permit for use in any jurisdiction where a locally issued work permit is not required by the licensing authority of a city, county, or city and county shall be made to the division, and may be granted or denied for any cause deemed reasonable by the division. If the division denies the application, it shall include in its notice of denial a statement of facts upon which it relied in denying the application.

(e) An order of the division denying an application for a work permit, including an order declining to issue a work permit following review pursuant to paragraph (3) of subdivision (c), is subject to the procedures described in Sections 19858, 19858.5, and 19858.7.

(f) This section shall remain in effect only until the occurrence of one of the events specified in Section 66 of the act that added this chapter, and as of that date is repealed, unless a later enacted statute, which is enacted before the occurrence of one of the events specified in Section 66 of the act that added this chapter, deletes or extends that date.

19911. (a) The division may issue an order summarily suspending a person's work permit, whether issued by a city, county, or city and county, or by the division, upon a finding that the suspension is necessary for the immediate preservation of the public peace, health, safety, or general welfare. The order is effective when served upon the holder of the permit.

(b) The order of summary suspension shall state facts upon which the finding of necessity for the suspension is based. For the purposes of this section, the order of summary suspension shall be deemed an accusation.

(c) An order of summary suspension shall be signed by the Attorney General or by the Chief Deputy Attorney General.

(d) The person whose work permit is summarily suspended has a right to a hearing to commence not more than 30 calendar days from the date of service of the suspension.

(e) This section shall remain in effect only until the occurrence of one of the events specified in Section 66 of the act that added this chapter, and as of that date is repealed, unless a later enacted statute, which is enacted before the occurrence of one of the events specified in Section 66 of the act that added this chapter, deletes or extends that date.

19912. (a) The board may revoke a work permit or, if issued by the licensing authority of a city, county, or city and county, notify the authority to revoke it, and the licensing authority shall revoke it, if the board finds, after a hearing, that a gambling enterprise employee or independent agent has failed to disclose, misstated, or otherwise misled the division with respect to any fact contained in any application for a work permit, or if the board finds that the employee or independent agent, subsequent to being issued a work permit, has done any of the following:

(1) Committed, attempted, or conspired to do any acts prohibited by this chapter.

(2) Engaged in any dishonest, fraudulent, or unfairly deceptive activities in connection with controlled gambling, or knowingly possessed or permitted to remain in or upon any premises any cards, dice, mechanical devices, or any other cheating device.

(3) Concealed or refused to disclose any material fact in any investigation by the division.

(4) Committed, attempted, or conspired to commit, any embezzlement or larceny against a gambling licensee or upon the premises of a gambling establishment.

(5) Been convicted in any jurisdiction of any offense involving or relating to gambling.

(6) Accepted employment without prior division approval in a position for which he or she could be required to be licensed under this chapter after having been denied a license or after failing to apply for licensing when requested to do so by the division.

(7) Been refused the issuance of any license, permit, or approval to engage in or be involved with gambling or parimutuel wagering in any jurisdiction, or had the license, permit, or approval revoked or suspended.

(8) Been prohibited under color of governmental authority from being present upon the premises of any licensed gambling establishment or any establishment where parimutuel wagering is

conducted, for any reason relating to improper gambling activities or any illegal act.

(9) Been convicted of any felony.

(b) The board shall revoke a work permit if it finds, after hearing, that the holder thereof would be disqualified from holding a state gambling license for the reasons specified in paragraph (5) or (6) of subdivision (a) of Section 19850.

(c) Nothing in this section shall be construed to limit any powers of the division with respect to licensing.

(d) This section shall remain in effect only until the occurrence of one of the events specified in Section 66 of the act that added this chapter, and as of that date is repealed, unless a later enacted statute, which is enacted before the occurrence of one of the events specified in Section 66 of the act that added this chapter, deletes or extends that date.

19913. (a) The fee for an initial work permit issued by the division shall be not less than twenty-five dollars ($25) or more than two hundred fifty dollars ($250). The fee for renewal of a work permit shall be no more than twenty-five dollars ($25).

(b) This section shall remain in effect only until the occurrence of one of the events specified in Section 66 of the act that added this chapter, and as of that date is repealed, unless a later enacted statute, which is enacted before the occurrence of one of the events specified in Section 66 of the act that added this chapter, deletes or extends that date.

## Article 9. Conditions of Operation

19915. (a) It is the policy of the State of California to require that all establishments wherein controlled gambling is conducted in this state be operated in a manner suitable to protect the public health, safety, and general welfare of the residents of the state. The responsibility for the employment and maintenance of suitable methods of operation rests with the owner licensee, and willful or persistent use or toleration of methods of operation deemed unsuitable by the division or by local government shall constitute grounds for license revocation or other disciplinary action.

(b) This section shall remain in effect only until the occurrence of one of the events specified in Section 66 of the act that added this chapter, and as of that date is repealed, unless a later enacted statute, which is enacted before the occurrence of one of the events specified in Section 66 of the act that added this chapter, deletes or extends that date.

19915.5. No person under the age of 21 years shall be permitted to enter upon the premises of a licensed gambling establishment, or any part thereof, except the following:

(a) An area, physically separated from any gambling area, for the exclusive purpose of dining. For purposes of this subdivision, any

place wherein food or beverages are dispensed primarily by vending machines shall not constitute a place for dining.

(b) Restrooms.

(c) A supervised room, as defined by regulation, that is physically separated from any gambling area and used primarily for the purpose of entertainment or recreation.

Any area of a gambling establishment to which a person under the age of 21 years may have access under this subdivision shall have an entrance that shall not require the entrants to enter upon or pass through the gambling floor. All persons under the age of 21 years shall be restricted to the entrance specified in this subdivision.

(d) Effective January 1, 1999, no license shall be renewed with respect to a gambling establishment that is operated as of the effective date of this chapter unless the establishment has complied with this section.

19916. No owner licensee shall operate a gambling enterprise in violation of any provision of this chapter or any regulation adopted pursuant to this chapter.

19917. No owner licensee shall operate a gambling enterprise in violation of any governing local ordinance.

19918. (a) Each owner licensee shall maintain security controls over the gambling premises and all operations therein related to gambling, and those security controls are subject to the approval of the division.

(b) This section shall remain in effect only until the occurrence of one of the events specified in Section 66 of the act that added this chapter, and as of that date is repealed, unless a later enacted statute, which is enacted before the occurrence of one of the events specified in Section 66 of the act that added this chapter, deletes or extends that date.

## Article 9.5. Disciplinary Actions

19920. (a) The division shall make appropriate investigations as follows:

(1) Determine whether there has been any violation of this chapter or any regulations adopted thereunder.

(2) Determine any facts, conditions, practices, or matters that it may deem necessary or proper to aid in the enforcement of this chapter or any regulation adopted thereunder.

(3) Aid in adopting regulations.

(4) Secure information as a basis for recommending legislation relating to this chapter.

(b) If, after any investigation, the division is satisfied that a license, permit, finding of suitability, or approval should be suspended or revoked, it shall file an accusation with the board in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(c) This section shall remain in effect only until the occurrence of one of the events specified in Section 66 of the act that added this chapter, and as of that date is repealed, unless a later enacted statute, which is enacted before the occurrence of one of the events specified in Section 66 of the act that added this chapter, deletes or extends that date.

19921. (a) The division may issue any emergency orders against an owner licensee or any person involved in a transaction requiring prior approval that the division deems reasonably necessary for the immediate preservation of the public peace, health, safety, or general welfare.

(b) The emergency order shall set forth the grounds upon which it is based, including a statement of facts constituting the alleged emergency necessitating the action.

(c) The emergency order is effective immediately upon issuance and service upon the owner licensee or any agent of the licensee registered with the division for receipt of service, or, in cases involving prior approval, upon issuance and service upon the person or entity involved, or upon an agent of that person or entity authorized to accept service of process in this state. The emergency order may suspend, limit, condition, or take other action in relation to the license of one or more persons in an operation without affecting other individual licensees, registrants, or the licensed gambling establishment. The emergency order shall remain in effect until further order of the division or final disposition of any proceeding conducted pursuant to subdivision (d).

(d) Within two calendar days after issuance of an emergency order, the division shall file an accusation with the board against the person or entity involved. Thereafter, the person or entity against whom the emergency order has been issued and served is entitled to a hearing that, if so requested, shall commence within 10 business days of the date of the request if a gambling operation is closed by the order, and in all other cases, within 30 calendar days of the date of the request. On application of the division, and for good cause shown, a court may extend the time within which a hearing is required to be commenced, upon those terms and conditions that the court deems equitable.

(e) This section shall remain in effect only until the occurrence of one of the events specified in Section 66 of the act that added this chapter, and as of that date is repealed, unless a later enacted statute, which is enacted before the occurrence of one of the events specified in Section 66 of the act that added this chapter, deletes or extends that date.

19922. (a) Any person aggrieved by a final decision or order of the board that limits, conditions, suspends, or revokes any previously granted license or approval, made after hearing by the board, may petition the Superior Court for the County of Sacramento for judicial review pursuant to Section 1094.5 of the Code of Civil Procedure and

Section 11523 of the Government Code. Notwithstanding any other provision of law, the standard set forth in paragraph (1) of subdivision (h) of Section 1094.5 of the Code of Civil Procedure shall apply for obtaining a stay of the operation of a board order. In every case where it is claimed that the findings are not supported by the evidence, abuse of discretion is established if the court determines that the findings are not supported by substantial evidence in light of the whole record.

(b) The court may summarily deny the petition, or the court may issue an alternative writ directing the board to certify the whole record of the division in the case to the court within a time specified. No new or additional evidence shall be introduced in the court, but, if an alternative writ issues, the cause shall be heard on the whole record of the division as certified by the board.

(c) In determining the cause following issuance of an alternative writ, the court shall enter judgment affirming, modifying, or reversing the order of the board, or the court may remand the case for further proceedings before, or reconsideration by, the board.

(d) This section provides the exclusive means to review adjudicatory decisions of the board.

## Article 10. Penalties

19930. Any person included on the list of persons to be excluded or ejected from a gambling establishment pursuant to this chapter is guilty of a misdemeanor if he or she thereafter knowingly enters the premises of a licensed gambling establishment.

19932. (a) A person under the age of 21 years shall not do any of the following:

(1) Play, be allowed to play, place wagers at, or collect winnings from, whether personally or through an agent, any gambling game.

(2) Loiter, or be permitted to loiter, in or about any room wherein any gambling game is operated or conducted.

(3) Be employed as an employee in a licensed gambling establishment except in a parking lot, coffee shop, restaurant, business office, or other similar room, as determined by regulations, wherein no gambling activity or activity directly associated with gambling takes place.

(4) Present or offer to any licensee, or to an agent of a licensee, any written, printed, or photostatic evidence of age and identity that is false, fraudulent, or not actually his or her own for the purpose of doing any of the things described in paragraphs (1) to (3), inclusive.

(b) Any licensee or employee in a gambling establishment who violates or permits the violation of this section, and any person under 21 years of age who violates this section, is guilty of a misdemeanor.

(c) Proof that a licensee, or agent or employee of a licensee, 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 section or to any proceeding for the suspension or revocation of any license or work permit based thereon. For the purposes of this section, "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 or an identification card issued to a member of the armed forces, that contains the name, date of birth, description, and picture of the person.

19933. (a) Any person who willfully fails to report, pay, or truthfully account for and pay over any license fee imposed by this chapter, or willfully attempts in any manner to evade or defeat the license fee or payment thereof, shall be punished by imprisonment in a county jail, or by a fine of not more than five thousand dollars ($5,000), or by both that imprisonment and fine.

(b) Any person who willfully violates any of the provisions of this chapter for which a penalty is not expressly provided, is guilty of a misdemeanor.

19933.5. (a) Except as specified in subdivision (c), this section applies to any person or business that is engaged in controlled gambling, whether or not licensed to do so.

(b) Any person or business described in subdivision (a), with actual knowledge of the requirements of regulations adopted by the division pursuant to subdivision (d) of Section 19834, that knowingly and willfully fails to comply with the requirements of those regulations shall be liable for a monetary penalty. The board may impose a monetary penalty for each violation. However, in the first proceeding that is initiated pursuant to this subdivision, the penalties for all violations shall not exceed a total sum of ten thousand dollars ($10,000). If a penalty was imposed in a prior proceeding before the board, the penalties for all violations shall not exceed a total sum of twenty-five thousand dollars ($25,000). If a penalty was imposed in two or more prior proceedings before the board, the penalties for all violations shall not exceed a total sum of one hundred thousand dollars ($100,000).

(c) This section does not apply to any case where the person is criminally prosecuted in federal or state court for conduct related to a violation of Section 14162 of the Penal Code.

(d) This section shall remain in effect only until the occurrence of one of the events specified in Section 66 of the act that added this chapter, and as of that date is repealed, unless a later enacted statute, which is enacted before the occurrence of one of the events specified in Section 66 of the act that added this chapter, deletes or extends that date.

19934. Any person who willfully resists, prevents, impedes, or interferes with the division or the board or any of their agents or employees in the performance of duties pursuant to this chapter is guilty of a misdemeanor, punishable by imprisonment in a county jail

for not more than six months, or by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine.

## Article 11. Revenues

19940. (a) All fines and penalties collected pursuant to this chapter shall be deposited in a special account in the General Fund, and, upon appropriation, may be expended by the Department of Justice to offset costs incurred pursuant to this chapter.

(b) Except as otherwise provided in subdivision (a), all fees and revenue collected pursuant to this chapter shall be deposited in the Gambling Control Fund, which is hereby created in the State Treasury. Notwithstanding Section 13340 of the Government Code, five million four hundred thousand dollars ($5,400,000) of the funds deposited in the Gambling Control Fund shall be available, upon appropriation by the Legislature, to the Department of Justice each fiscal year, commencing with the 1998–99 fiscal year, for expenditure by the division and board exclusively for the support of the division and board in carrying out their duties and responsibilities under this chapter.

19941. (a) Every application for a license or approval shall be accompanied by a nonrefundable fee of five hundred dollars ($500).

(b) All fees for issuance or renewal of a state gambling license or key employee license shall be assessed against the gambling license issued to the owner of the gambling enterprise. Except as provided in subdivision (c), the annual fee for the issuance and renewal of that gambling license shall be determined by the division pursuant to the following schedule:

(1) For a license authorizing one to five tables, inclusive, at which games are played, two hundred fifty dollars ($250) for each table.

(2) For a license authorizing six to eight tables, inclusive, at which games are played, four hundred fifty dollars ($450) for each table.

(3) For a license authorizing 9 to 14 tables, inclusive, at which games are played, one thousand fifty dollars ($1,050) for each table.

(4) For a license authorizing 15 to 25 tables, inclusive, at which games are played, two thousand one hundred fifty dollars ($2,150) for each table.

(5) For a license authorizing 26 to 70 tables, inclusive, at which games are played, three thousand two hundred dollars ($3,200) for each table.

(6) For a license authorizing 71 or more tables at which games are played, three thousand seven hundred dollars ($3,700) for each table.

(c) Without regard to the number of tables at which games may be played pursuant to a gambling license, if, at the time of any license renewal, it is determined that the gross revenues of an owner licensee during the licensee's previous fiscal year fell within the following ranges, the annual fee for renewal of the license shall be as follows:

(1) For a gross revenue of two hundred thousand dollars ($200,000) to four hundred ninety-nine thousand nine hundred ninety-nine dollars ($499,999), inclusive, the amount specified by the division pursuant to paragraph (2) of subdivision (b).

(2) For a gross revenue of five hundred thousand dollars ($500,000) to one million nine hundred ninety-nine thousand nine hundred ninety-nine dollars ($1,999,999), inclusive, the amount specified by the division pursuant to paragraph (3) of subdivision (b).

(3) For a gross revenue of two million dollars ($2,000,000) to nine million nine hundred ninety-nine thousand nine hundred ninety-nine dollars ($9,999,999), inclusive, the amount specified by the division pursuant to paragraph (4) of subdivision (b).

(4) For a gross revenue of ten million dollars ($10,000,000) or more, the amount specified by the division pursuant to paragraph (5) of subdivision (b).

(d) Notwithstanding subdivision (c), the fee for renewal of a gambling license shall not be less than the amount specified in subdivision (b).

(e) (1) No later than July 1, 2000, the Attorney General shall review the fee schedule set forth in this section and make a recommendation to the Legislature concerning the reduction or increase in the fee amounts, if any.

(2) It is the intent of the Legislature that the revenue derived from the total of all issuance and renewal fees collected during each fiscal year not exceed five million four hundred thousand dollars ($5,400,000). If, at the end of any fiscal year prior to July 1, 2000, the division determines that the total of all issuance and renewal fees collected during that fiscal year exceeded the amount appropriated by the Legislature pursuant to subdivision (b) of Section 19940, the excess shall be refunded to all owner licensees within 180 calendar days after the close of the fiscal year, by way of a pro rata distribution.

(f) The division may provide for payment of the annual gambling license fee on an annual or installment basis.

(g) For the purposes of this section, each table at which a game is played constitutes a single game table.

19942. (a) The division, by regulation, shall establish fees for special licenses authorizing irregular operation of tables in excess of the total number of tables otherwise authorized to a licensed gambling establishment, for tournaments and other special events.

(b) This section shall remain in effect only until the occurrence of one of the events specified in Section 66 of the act that added this chapter, and as of that date is repealed, unless a later enacted statute, which is enacted before the occurrence of one of the events specified in paragraphs (1) to (4), inclusive, of Section 66 of the act that added this chapter, deletes or extends that date.

19944. Nothing contained in this chapter shall be deemed to restrict or limit the power of any city, county, or city and county to fix, impose, and collect a license tax.

### Article 12. Local Governments

19950. This chapter shall not prohibit the enactment, amendment, or enforcement of any ordinance by any city, county, or city and county relating to licensed gambling establishments that is not inconsistent with this chapter. On and after the effective date of this chapter, no city, county, or city and county shall issue a gambling license with respect to any gambling establishment unless one of the following is true:

(a) The gambling establishment is located in a city, county, or city and county wherein, after January 1, 1984, an ordinance was adopted by the electors of the city, county, or city and county, in an election conducted pursuant to former Section 19819 of the Business and Professions Code, as that section read immediately before its repeal by the act that enacted this chapter.

(b) The gambling establishment is located in a city, county, or city and county wherein, prior to January 1, 1984, there was in effect an ordinance that expressly authorized the operation of one or more cardrooms.

(c) After the effective date of this chapter, a majority of the electors voting thereon affirmatively approve a measure permitting controlled gambling within that city, county, or city and county.

(1) The measure to permit controlled gambling shall appear on the ballot in substantially the following form:

"Shall licensed gambling establishments in which any controlled games permitted by law, such as draw poker, low-ball poker, panguine (pan), seven-card stud, or other lawful card games or tile games, are played, be allowed in __________? Yes ________ No ________."

(2) In addition, the initial implementing ordinances shall be drafted and appear in full on the sample ballot and shall set forth at least all of the following:

(A) The hours of operation.

(B) The games to be played.

(C) The wagering limits.

(D) The maximum number of gambling establishments permitted by the ordinance.

(E) The maximum number of tables permitted in each gambling establishment.

19950.1. (a) On or after the effective date of this chapter, any amendment to any ordinance that would result in an expansion of gambling in the city, county, or city and county, shall not be valid

unless the amendment is submitted for approval to the voters of the city, county, or city and county, and is approved by a majority of the electors voting thereon. An ordinance may be amended without the approval of the electors one time on or after the effective date of this chapter to expand gambling by a change that results in an increase of less than 25 percent with respect to any of the matters set forth in paragraphs (1), (2), (3), (5), and (6) of subdivision (b). Thereafter, any additional expansion shall be approved by a majority of the electors voting thereon. This subdivision does not apply to a licensed gambling establishment with five or fewer tables.

(b) For the purposes of this section, "expansion of gambling" means, when compared to that authorized on January 1, 1996, or under an ordinance adopted pursuant to subdivision (a) of Section 19851, whichever is the lesser number, a change that results in any of the following:

(1) An increase of 25 percent or more in the number of gambling tables in the city, county, or city and county.

(2) An increase of 25 percent or more in the number of licensed card rooms in the city, county, or city and county.

(3) An increase of 25 percent or more in the number of gambling tables that may be operated in a gambling establishment in the city, county, or city and county.

(4) The authorization of any additional form of gambling, other than card games, that may be legally played in this state, to be played at a gambling establishment in the city, county, or city and county.

(5) An increase of 25 percent or more in the hours of operation of a gambling establishment in the city, county, or city and county.

(6) An increase of 25 percent or more in the maximum amount permitted to be wagered in a game.

(c) The measure to expand gambling shall appear on the ballot in substantially the following form:

"Shall gambling be expanded in ________ beyond that operated or authorized on January 1, 1996, by ________ (describe expansion)? Yes ________ No ________."

19950.2. (a) On and after the effective date of this chapter, neither the governing body nor the electors of a county, city, or city and county that has not authorized legal gaming within its boundaries prior to January 1, 1996, shall authorize legal gaming.

(b) No ordinance in effect on January 1, 1996, that authorizes legal gaming within a city, county, or city and county may be amended to expand gaming in that jurisdiction beyond that permitted on January 1, 1996.

(c) This section shall remain in effect only until January 1, 2001, and as of that date is repealed.

19951. No city, county, or city and county may grant, or permit to continue in effect, a license to deal, operate, carry on, conduct,

maintain, or expose for play any controlled game to any applicant or holder of a local license unless the applicant or local licensee is an owner licensee as defined in this chapter. However, the issuance of a state gambling license to a person imposes no requirements upon the city, county, or city and county to issue a license to the person.

## Article 13. Miscellaneous Provisions

19956. If any clause, sentence, paragraph, or part of this chapter, for any reason, is adjudged by a court of competent jurisdiction to be invalid, that judgment shall not affect, impair, or invalidate the remainder of this chapter and the application thereof to other persons or circumstances, but shall be confined to the operation of the clause, sentence, paragraph, or part thereof directly involved in the controversy in which the judgment was rendered and to the person or circumstances involved.

19957. This act is an exercise of the police power of the state for the protection of the health, safety, and welfare of the people of the State of California, and shall be liberally construed to effectuate those purposes.

19958. For the purposes of Section 3482 of the Civil Code, the issuance of a state gambling license shall not be construed to authorize any conduct or activity other than the conduct of controlled gambling.

## Article 14. Additional Restrictions Related to Fair Elections and Corruption of Regulators

19959. (a) The Legislature finds and declares that there is a compelling governmental interest in ensuring that elections conducted pursuant to Section 19950 are conducted fairly and that electors in those elections are presented with fair and balanced arguments in support of and in opposition to the existence of gambling establishments. Large contributions by gambling operators or prospective gambling operators who will be financially interested in the outcome of the election often unfairly distort the context in which those elections take place.

(b) In California, in other states, and in other countries, there is ample historical evidence of the potential for revenues derived from gambling to be used to corrupt political officials in the regulation or prosecution of crimes related to gambling activities, embezzlement, and money laundering.

(c) This article is an exercise of the police power of the state for the protection of the health, safety, and welfare of the people of this state.

19959.5. (a) A member of the board, the executive secretary of the board, the director of the division, and any employee designated by regulation of the division for purposes of this section, shall not, for

a period of three years after leaving office or terminating employment, for compensation, act as agent or attorney for, or otherwise represent, any other person by making any formal or informal appearance, or by making any oral or written communication, before the board or the division, or any officer or employee thereof, if the appearance or communication is for the purpose of influencing administrative action, or influencing any action or proceeding involving the issuance, amendment, awarding, or revocation of a permit, license, or approval.

(b) A member of the board shall not solicit or accept campaign contributions from any person, including any applicant or licensee.

(c) This section shall remain in effect only until the occurrence of one of the events specified in Section 66 of the act that added this chapter, and as of that date is repealed, unless a later enacted statute, which is enacted before the occurrence of one of the events specified in Section 66 of the act that added this chapter, deletes or extends that date.

19960.2. (a) The division shall, by regulation, provide for the denial, suspension, or revocation of an application or license for the knowing and willful violation of any law or ordinance committed after January 1, 1998, and within three years prior to the submission of the license or renewal application, or any time thereafter, with respect to campaign finance disclosure or contribution limitations applicable to an election that is conducted pursuant to Section 19950.

(1) The remedies specified herein are in addition to any other remedy or penalty provided by law.

(2) Any final determination by the Fair Political Practices Commission that the applicant did not violate any provision of state law within its jurisdiction shall be binding on the division.

(3) Any final determination by a city or county governmental body having ultimate jurisdiction over the matter that the applicant did not violate an ordinance with respect to campaign finance disclosure or contribution limitations applicable to an election conducted pursuant to Section 19950 shall be binding on the division.

(b) Every applicant for a gambling license, or any renewal thereof, shall file with the division, at the time the license application or renewal is filed, the following information:

(1) Any statement or other document required to be filed with the Fair Political Practices Commission relative to an election that is conducted pursuant to Section 19950, or former Section 19819, as that section read immediately prior to its repeal by the act that enacted this chapter, within three years of the date on which the application is submitted.

(2) Any statement or other document required to be filed with any local jurisdiction respecting campaign finance disclosure or contribution limitations applicable to an election that is conducted pursuant to Section 19950, or former Section 19819, as that section read immediately prior to its repeal by the act that enacted this

chapter, within three years of the date on which the application is submitted.

(3) A report of any contribution of money or thing of value, in excess of one hundred dollars ($100), made to any committee, as defined by Section 82013 of the Government Code, associated with any election that is conducted pursuant to Section 19950, or former Section 19819, as that section read immediately prior to its repeal by the act that enacted this chapter, within three years of the date on which the application is submitted.

(4) A report of any other significant involvement by the applicant or licensee in an election that is conducted pursuant to Section 19950, or former Section 19819, as that section read immediately prior to its repeal by the act that enacted this chapter, within three years of the date on which the application is submitted.

(c) The division shall adopt regulations to implement this section.

(d) This section shall remain in effect only until the occurrence of one of the events specified in Section 66 of the act that added this chapter, and as of that date is repealed, unless a later enacted statute, which is enacted before the occurrence of one of the events specified in Section 66 of the act that added this chapter, deletes or extends that date.

19960.4. It is the intent of the Legislature that if any provision of this article is adjudged by a court to be invalid because of any conflict or inconsistency with the Political Reform Act of 1974 (Title 9 (commencing with Section 81000) of the Government Code), as amended, that judgment shall not affect, impair, or invalidate any other provision of this chapter and the application thereof to other persons or circumstances, but shall be confined to the operation of the clause, sentence, paragraph, or part thereof directly involved in the controversy in which the judgment was rendered and to the person or circumstances involved.

SEC. 4. Section 19810A is added to the Business and Professions Code, to read:

19810A. (a) There is in state government the California Gambling Control Commission, consisting of five members appointed by the Governor, subject to confirmation by the Senate. On the effective date of this section, the California Gambling Control Commission shall succeed to all of the powers of the California Gambling Control Board, which is hereby abolished. Wherever in this chapter reference is made to the board, it shall be construed to mean the commission.

(b) Jurisdiction, including jurisdiction over operation and concentration, and supervision over gambling establishments in this state and over all persons or things having to do with the operations of gambling establishments is vested in the commission.

(c) This section shall become operative on the occurrence of one of the events specified in Section 66 of the act that added this section to the Business and Professions Code.

SEC. 5. Section 19811A is added to the Business and Professions Code, to read:

19811A. (a) Each member of the commission shall be a citizen of the United States and a resident of this state.

(b) No Member of the Legislature, no person holding any elective office in state, county, or local government, and no officer or official of any political party is eligible for appointment to the commission.

(c) No more than three of the five members of the commission shall be members of the same political party.

(d) A person is ineligible for appointment to the commission if, within two years prior to appointment, the person, or any partnership or corporation in which the person is a principal, was employed by, retained by, or derived substantial income from, any gambling establishment. For the purposes of this subdivision, "gambling establishment" means one or more rooms wherein any gaming within the meaning of Chapter 10 (commencing with Section 330) of Title 9 of Part 1 of the Penal Code, or any controlled game within the meaning of Section 337j of the Penal Code, is conducted, whether or not the activity occurred in California.

(e) One member of the commission shall be a certified public accountant with auditing experience, one member shall be an attorney and a member of the State Bar of California with regulatory law experience, one member shall have a background in law enforcement and criminal investigation, one member shall have a background in business with at least five years of business experience, and one member shall be from the public at large.

(f) This section shall become operative on the occurrence of one of the events specified in Section 66 of the act that added this section to the Business and Professions Code.

SEC. 6. Section 19812A is added to the Business and Professions Code, to read:

19812A. (a) Of the members initially appointed, two shall be appointed for a term of two years, two shall be appointed for a term of three years, and one shall be appointed for a term of four years. After the initial terms, the term of office of each member of the board is four years.

(b) The Governor shall appoint the members of the commission, subject to confirmation by the Senate, and shall designate one member to serve as chairperson. The initial appointments shall be made within three months of the operative date of this section. Thereafter, vacancies shall be filled within 60 days of the date of the vacancy by the Governor, subject to confirmation by the Senate.

(c) The Governor may remove any member of the commission for incompetence, neglect of duty, or corruption upon first giving him or her a copy of the charges and an opportunity to be heard.

(d) This section shall become operative on the occurrence of one of the events specified in Section 66 of the act that added this section to the Business and Professions Code.

SEC. 7. Section 19813A is added to the Business and Professions Code, to read:

19813A. (a) During their terms of office, the members of the commission shall not engage in any other business, vocation, or employment.

(b) Before entering upon the duties of his or her office, the director and each member of the commission shall subscribe to the constitutional oath of office and, in addition, swear that he or she is not, and during his or her term of office shall not be, pecuniarily interested in, or doing business with, any person, business, or organization holding a gambling license.

(c) This section shall become operative on the occurrence of one of the events specified in Section 66 of the act that added this section to the Business and Professions Code.

SEC. 8. Section 19814A is added to the Business and Professions Code, to read:

19814A. (a) The director and the members of the commission shall receive the salary provided for by Section 11553.5 of the Government Code.

(b) This section shall become operative on the occurrence of one of the events specified in Section 66 of the act that added this section to the Business and Professions Code.

SEC. 9. Section 19815.5A is added to the Business and Professions Code, to read:

19815.5A. (a) The commission shall establish and appoint a Gaming Policy Advisory Committee of 10 members. The committee shall be composed of representatives of controlled gambling licensees and members of the general public in equal numbers. The executive secretary shall, from time to time, convene the committee for the purpose of discussing matters of controlled gambling regulatory policy and any other relevant gambling-related issue. The recommendations concerning gambling policy made by the committee shall be presented to the commission, but shall be deemed advisory and not binding on the commission in the performance of its duties or functions.

(b) This section shall become operative on the occurrence of one of the events specified in Section 66 of the act that added this section to the Business and Professions Code.

SEC. 10. Section 19815.8A is added to the Business and Professions Code, to read:

19815.8A. (a) The commission shall investigate the following matters:

(1) The consequences, benefits, and disadvantages of imposing a state tax on revenue generated by licensed gambling establishments.

(2) Regulation of advertising for the purpose of limiting exposure of children to materials promoting gambling.

(b) The commission shall report its findings to the Legislature and the Governor no later than January 1, 2000.

(c) This section shall become operative on the occurrence of one of the events specified in Section 66 of the act that added this section to the Business and Professions Code.

SEC. 11. Section 19817A is added to the Business and Professions Code, to read:

19817A. (a) The commission shall establish and maintain a general office for the transaction of its business in Sacramento. The commission may hold meetings at any place within the state when the interests of the public may be better served.

(b) A public record of every vote shall be maintained at the commission's general office.

(c) A majority of the membership of the commission is a quorum of the commission. The concurring vote of three members of the commission shall be required for any official action of the commission or for the exercise of any of the commission's duties, powers, or functions.

(d) Except as otherwise provided in this chapter, Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code applies to meetings of the commission. Notwithstanding Section 11125.1 of the Government Code, documents, which are filed with the commission by the division for the purpose of evaluating the qualifications of an applicant, are exempt from disclosure under Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code.

(e) This section shall become operative on the occurrence of one of the events specified in Section 66 of the act that added this section to the Business and Professions Code.

SEC. 12. Section 19820A is added to the Business and Professions Code, to read:

19820A. (a) The commission shall cause to be made and kept a record of all proceedings at regular and special meetings of the commission. These records shall be open to public inspection.

(b) The commission shall maintain a file of all applications for licenses under this chapter, together with a record of all actions taken with respect to those applications. The file and record shall be open to public inspection.

(c) The division and commission may maintain any other files and records as they deem appropriate. Except as provided in this chapter, the records of the division and commission are exempt from disclosure from Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code.

(d) Except as necessary for the administration of this chapter, no commissioner and no official, employee, or agent of the commission or the division, having obtained access to confidential records or information in the performance of duties pursuant to this chapter, shall knowingly disclose or furnish the records or information, or any

part thereof, to any person who is not authorized by law to receive it. A violation of this subdivision is a misdemeanor.

(e) Notwithstanding subdivision (k) of Section 1798.24 of the Civil Code, a court shall not compel disclosure of personal information in the possession of the division or the commission to any person in any civil proceeding wherein the division or the commission is not a party, except for good cause and upon a showing that the information cannot otherwise be obtained. Nothing herein shall be construed to authorize the disclosure of personal information that would otherwise be exempt from disclosure.

(f) This section shall become operative on the occurrence of one of the events specified in Section 66 of the act that added this section to the Business and Professions Code.

SEC. 13. Section 19821A is added to the Business and Professions Code, to read:

19821A. (a) All files, records, reports, and other information in possession of any state or local governmental agency that are relevant to an investigation by the division conducted pursuant to this chapter shall be made available to the division as requested. However, any tax information received from a governmental agency shall be used solely for effectuating the purposes of this chapter. To the extent that the files, records, reports, or information described in this section are confidential or otherwise privileged from disclosure under any law or exercise of discretion, they shall not lose that confidential or privileged status for having been disclosed to the division.

(b) All files, records, reports, and other information pertaining to gambling matters in the possession of the division shall be open at all times to inspection by the members of the commission.

(c) This section shall become operative on the occurrence of one of the events specified in Section 66 of the act that added this section to the Business and Professions Code.

SEC. 14. Section 19822A is added to the Business and Professions Code, to read:

19822A. (a) The responsibilities of the commission include, without limitation, all of the following:

(1) Assuring that licenses, approvals, and permits are not issued to, or held by, unqualified or disqualified persons, or by persons whose operations are conducted in a manner that is inimical to the public health, safety, or welfare.

(2) Assuring that there is no material involvement, directly or indirectly, with a licensed gambling operation, or the ownership or management thereof, by unqualified or disqualified persons, or by persons whose operations are conducted in a manner that is inimical to the public health, safety, or welfare.

(b) For the purposes of this section, “unqualified person” means a person who is found to be unqualified pursuant to the criteria set forth in Section 19848, and “disqualified person” means a person who

is found to be disqualified pursuant to the criteria set forth in Section 19850.

(c) This section shall become operative on the occurrence of one of the events specified in Section 66 of the act that added this section to the Business and Professions Code.

SEC. 15. Section 19823A is added to the Business and Professions Code, to read:

19823A. (a) The commission shall have all powers necessary and proper to enable it fully and effectually to carry out the policies and purposes of this chapter, including, without limitation, the power to do all of the following:

(1) Require any person to apply for a license or approval as specified in this chapter.

(2) For any cause deemed reasonable by the commission, deny any application for a license, permit, or approval provided for in this chapter, limit, condition, or restrict any such license, permit, or approval, or impose any fine upon any person licensed or approved.

(3) Approve or disapprove transactions, events, and processes as provided in this chapter.

(4) Take actions deemed to be reasonable to ensure that no ineligible, unqualified, disqualified, or unsuitable persons are associated with controlled gambling activities.

(5) Take actions deemed to be reasonable to ensure that gambling activities take place only in suitable locations.

(6) Grant temporary licenses or approvals on appropriate terms and conditions.

(7) Institute a civil action in any superior court against any person subject to this chapter to restrain a violation of this chapter. An action brought against a person pursuant to this section does not preclude a criminal action or administrative proceeding against that person by the Attorney General or any district attorney or city attorney.

(b) This section shall become operative on the occurrence of one of the events specified in Section 66 of the act that added this section to the Business and Professions Code.

SEC. 16. Section 19824A is added to the Business and Professions Code, to read:

19824A. The division shall have all of the following responsibilities:

(a) To investigate the qualifications of applicants before any license is issued, and to investigate any request to the commission for any approval or permission that may be required pursuant to this chapter. The division may recommend the denial or the limitation, conditioning, or restriction of any license, approval, or permission.

(b) To monitor the conduct of all licensees and other persons having a material involvement, directly or indirectly, with a gambling operation or its holding company, for the purpose of ensuring that licenses are not issued or held by, and that there is no direct or indirect material involvement with, a gambling operation

or holding company by ineligible, unqualified, disqualified, or unsuitable persons, or persons whose operations are conducted in a manner that is inimical to the public health, safety, or welfare.

(c) To investigate suspected violations of this chapter or laws of this state relating to gambling, including any activity prohibited by Chapter 9 (commencing with Section 319) or Chapter 10 (commencing with Section 330) of Title 9 of Part 1 of the Penal Code.

(d) To investigate complaints that are lodged against licensees, or other persons associated with a gambling operation, by members of the public.

(e) To initiate, where appropriate, disciplinary actions as provided in this chapter. In connection with any disciplinary action, the division may seek restriction, limitation, suspension, or revocation of any license or approval, or the imposition of any fine upon any person licensed or approved.

(f) To adopt regulations reasonably related to its functions and duties as specified in this chapter.

(g) Approve the play of any controlled game, including placing restrictions and limitations on how a controlled game may be played.

(h) This section shall become operative on the occurrence of one of the events specified in Section 66 of the act that added this section to the Business and Professions Code.

SEC. 17. Article 3 (commencing with Section 19830A) is added to Chapter 5 of Division 8 of the Business and Professions Code, to read:

## Article 3. Regulations

19830A. (a) The commission may adopt regulations for the administration and enforcement of this chapter. To the extent appropriate, regulations of the commission and the division shall take into consideration the operational differences of large and small establishments.

(b) Subject to subdivision (d), Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code does not apply to the following regulations of the commission, if adopted within 90 days after the effective date of this chapter:

(1) Regulations described in subdivisions (a), (b), (e), (g), (h), (i) to (n), inclusive, (p), and (q) of Section 19834A.

(2) Regulations adopted for the purpose of implementing Section 62 of the act that enacted this chapter.

(c) Any regulation adopted pursuant to subdivision (b) shall be filed with the Secretary of State and shall be effective immediately upon that filing.

(d) Except as otherwise provided in this subdivision, no regulation adopted pursuant to subdivision (b) shall be valid after September 1, 1998, unless the regulation has been subsequently readopted by the division in accordance with Chapter 3.5 (commencing with Section

11340) of Part 1 of Division 3 of Title 2 of the Government Code, subject to all of the following:

(1) This subdivision does not apply to a regulation that is exempted from Article 5 (commencing with Section 11346) of Chapter 3.5 of Division 3 of Title 2 of the Government Code, by operation of subdivision (a) of Section 11346.1 of the Government Code.

(2) If, prior to September 1, 1998, the division has mailed a notice described in Section 11346.4 of the Government Code with respect to a regulation adopted pursuant to subdivision (b), the regulation shall not cease to be effective pursuant to this subdivision until the earlier of one of the following events:

(A) The readopted regulation is filed with the Secretary of State pursuant to subdivision (a) of Section 11349.3, or subdivision (e) of Section 11349.5, of the Government Code.

(B) The readopted regulation has been disapproved by the Office of Administrative Law and the time within which a request for review may be filed pursuant to Section 11349.5 of the Government Code has expired.

(C) The readopted regulation is disapproved by the Office of Administrative Law, and the Governor transmits a decision pursuant to subdivision (c) of Section 11349.5 of the Government Code affirming the disapproval.

19834A. The regulations adopted by the commission shall do all of the following:

(a) With respect to applications, registrations, investigations, and fees, the regulations shall include, but not be limited to, provisions that do all of the following:

(1) Prescribe the method and form of application and registration.

(2) Prescribe the information to be furnished by any applicant, licensee, or registrant concerning, as appropriate, the person's personal history, habits, character, associates, criminal record, business activities, organizational structure, and financial affairs, past or present.

(3) Prescribe the information to be furnished by an owner licensee relating to the licensee's gambling employees.

(4) Require fingerprinting or other methods of identification of an applicant, licensee, or employee of a licensee.

(5) Prescribe the manner and method of collection and payment of fees and issuance of licenses.

(b) Provide for the approval of game rules and equipment by the division to ensure fairness to the public and compliance with state laws.

(c) Implement the provisions of this chapter relating to licensing.

(d) Require owner licensees to report and keep records of transactions, as determined by the division, involving cash or credit. The regulations may include, without limitation, regulations requiring owner licensees to file with the division reports similar to

those required by Sections 5313 and 5314 of Title 31 of the United States Code, and by Sections 103.22 and 103.23 of Title 31 of the Code of Federal Regulations, and any successor provisions thereto, from financial institutions, as defined in Section 5312 of Title 31 of the United States Code and Section 103.11 of Title 31 of the Code of Federal Regulations, and any successor provisions.

(e) Provide for the receipt of protests and written comments on an application by public agencies, public officials, local governing bodies, or residents of the location of the gambling establishment or future gambling establishment.

(f) Provide for the disapproval of advertising by licensed gambling establishments that is determined by the division to be deceptive to the public. Regulations adopted by the division for advertising by licensed gambling establishments shall be consistent with the advertising regulations adopted by the California Horse Racing Board and the Lottery Commission. Advertisement that appeals to children or adolescents or that offers gambling as a means of becoming wealthy is presumptively deceptive.

(g) Govern all of the following:

(1) The extension of credit.

(2) The cashing, deposit, and redemption of checks or other negotiable instruments.

(3) The verification of identification in monetary transactions.

(h) Prescribe minimum procedures for adoption by owner licensees to exercise effective control over their internal fiscal and gambling affairs, which shall include, but not be limited to, provisions for all of the following:

(1) The safeguarding of assets and revenues, including the recording of cash and evidences of indebtedness.

(2) Prescribing the manner in which compensation from games and gross revenue shall be computed and reported by an owner licensee.

(3) The provision of reliable records, accounts, and reports of transactions, operations, and events, including reports to the division.

(i) Provide for the adoption and use of internal audits, whether by qualified internal auditors or by certified public accountants. As used in this subdivision, “internal audit” means a type of control that operates through the testing and evaluation of other controls and that is also directed toward observing proper compliance with the minimum standards of control prescribed in subdivision (h).

(j) Require periodic financial reports from each owner licensee.

(k) Specify standard forms for reporting financial conditions, results of operations, and other relevant financial information.

(*l*) Formulate a uniform code of accounts and accounting classifications to ensure consistency, comparability, and effective disclosure of financial information.

(m) Prescribe intervals at which the information in subdivisions (j) and (k) shall be furnished to the division.

(n) Require audits to be conducted, in accordance with generally accepted auditing standards, of the financial statements of all owner licensees whose annual gross revenues equal or exceed a specified sum. However, nothing herein shall be construed to limit the division's authority to require audits of any owner licensee. Audits, compilations, and reviews provided for in this subdivision shall be made by independent certified public accountants licensed to practice in this state.

(o) Restrict, limit, or otherwise regulate any activity that is related to the conduct of controlled gambling, consistent with the purposes of this chapter.

(p) Define and limit the area, games, hours of operation, number of tables, wagering limits, and equipment permitted, or the method of operation of games and equipment, if the division determines that local regulation of these subjects is insufficient to protect the health, safety, or welfare of residents in geographical areas proximate to a gambling establishment.

(q) Prohibit gambling establishments from cashing checks drawn against any federal, state, or county fund, including, but not limited to, social security, unemployment insurance, disability payments, or public assistance payments. However, a gambling establishment shall not be prohibited from cashing any payroll checks or checks for the delivery of goods or services that are drawn against a federal, state, or county fund.

(r) Provide for standards, specifications, and procedures governing the manufacture, distribution, including the sale and leasing, inspection, testing, location, operation, repair, and storage of gambling equipment, and for the licensing of persons engaged in the business of manufacturing, distributing, including the sale and leasing, inspection, testing, repair, and storage of gambling equipment.

19834.5A. (a) The commission shall not prohibit, on a statewide basis, the play of any game or restrict the manner in which any game is played, unless the commission, in a proceeding pursuant to this article, finds that the game, or the manner in which the game is played, violates a law of the United States, a law of this state, or a local ordinance.

(b) Nothing in this section shall be construed to limit the powers of the commission in a proceeding against a licensee pursuant to Article 9.5 (commencing with Section 19920A).

(c) No regulation prohibiting a game or the manner in which a game is played shall be deemed to be an emergency regulation.

19834.6A. The commission shall not prohibit, on a statewide basis, the placing of a wager on a controlled game by a person at a gaming table, if the person is present at the table and actively participating in the hand with a single-seated player upon whose hand the wagers are placed.

19835A. (a) The commission shall, by regulation, provide for the formulation of a list of persons who are to be excluded or ejected from any gambling establishment. The list may include any person whose presence in the establishment is determined by the commission to pose a threat to the interests of this state or to controlled gambling, or both.

(b) In making the determination described in subdivision (a), the commission may consider, but is not limited to considering, any of the following:

(1) Prior conviction of a crime that is a felony in this state or under the laws of the United States, a crime involving moral turpitude, or a violation of the gambling laws of this or any other state.

(2) The violation of, or conspiracy to violate, the provisions of this chapter relating to the failure to disclose an interest in a gambling establishment for which the person is required to obtain a license, or the willful evasion of fees.

(3) A notorious or unsavory reputation that would adversely affect public confidence and trust that the gambling industry is free from criminal or corruptive elements.

(4) An order of exclusion or ejection from a racing inclosure issued by the California Horse Racing Board.

(c) The commission shall distribute the list of persons who are to be excluded or ejected from any gambling establishment to all owner licensees and shall provide notice to any persons included on the list.

(d) The commission shall adopt regulations establishing procedures for hearing of petitions by persons who are ejected or excluded from licensed premises pursuant to this section or pursuant to Section 19835.5A.

(e) The commission may revoke, limit, condition, or suspend the license of an owner, or fine an owner licensee, if that licensee knowingly fails to exclude or eject from the gambling establishment of that licensee any person included on the list of persons to be excluded or ejected.

19835.5A. (a) A licensee may remove from his or her licensed premises any person who, while on the premises:

(1) Is a disorderly person, as defined by Section 647 of the Penal Code.

(2) Interferes with a lawful gambling operation.

(3) Solicits or engages in any act of prostitution.

(4) Begs, is boisterous, or is otherwise offensive to other persons.

(5) Commits any public offense.

(6) Is intoxicated.

(7) Is a person who the commission, by regulation, has determined should be excluded from licensed gambling establishments in the public interest.

(b) Nothing in this section shall be deemed, expressly or impliedly, to preclude a licensee from exercising the right to deny

access to or to remove any person from its premises or property for any reason the licensee deems appropriate.

19836A. This article shall become operative on the occurrence of one of the events specified in Section 66 of the act that added this section to the Business and Professions Code.

SEC. 18. Section 19841A is added to the Business and Professions Code, to read:

19841A. (a) An owner of a gambling enterprise that is not a natural person shall not be eligible for a state gambling license unless each of the following persons individually applies for and obtains a state gambling license:

(1) If the owner is a corporation, then each officer, director, and shareholder, other than a holding or intermediary company, of the owner. The foregoing does not apply to an owner that is either a publicly traded racing association or a qualified racing association.

(2) If the owner is a publicly traded racing association, then each officer, director, and owner, other than an institutional investor, of five percent or more of the outstanding shares of the publicly traded corporation.

(3) If the owner is a qualified racing association, then each officer, director, and shareholder, other than an institutional investor, of the subsidiary corporation and any owner, other than an institutional investor, of five percent or more of the outstanding shares of the publicly traded corporation.

(4) If the owner is a partnership, then every general and limited partner of, and every trustee or person, other than a holding or intermediary company, having or acquiring a direct or beneficial interest in, that partnership owner.

(5) If the owner is a trust, then the trustee, every beneficiary, and, in the discretion of the commission, the trustor of the trust.

(6) If the owner is a business organization other than a corporation, partnership, or trust, then all those persons as the commission may require, consistent with this chapter.

(7) Each person, other than a landlord, who receives, or is to receive, any percentage share of the revenue earned by the owner from gambling activities.

(8) Every employee, agent, guardian, personal representative, lender, or holder of indebtedness of the owner who, in the judgment of the commission, has the power to exercise a significant influence over the gambling operation.

(b) This section shall become operative on the occurrence of one of the events specified in Section 66 of the act that added this section to the Business and Professions Code.

SEC. 19. Section 19842A is added to the Business and Professions Code, to read:

19842A. (a) The commission, by regulation or order, may require that the following persons register with the commission, apply for a finding of suitability, or apply for a gambling license:

(1) Any person who furnishes any services or any property to a gambling enterprise under any arrangement whereby that person receives payments based on earnings, profits, or receipts from controlled gambling.

(2) Any person who owns an interest in the premises of a licensed gambling establishment or in real property used by a licensed gambling establishment.

(3) Any person who does business on the premises of a licensed gambling establishment.

(4) Any person who is an independent agent of, or does business with, a gambling enterprise as a ticket purveyor, a tour operator, the operator of a bus program, or the operator of any other type of travel program or promotion operated with respect to a licensed gambling establishment.

(5) Any person who provides any goods or services to a gambling enterprise for compensation that the commission finds to be grossly disproportionate to the value of the goods or services provided.

(6) Every person who, in the judgment of the commission, has the power to exercise a significant influence over the gambling operation.

(b) If a publicly traded corporation is engaged in activities described in paragraphs (2), (3), and (4) of subdivision (a), the division may require the corporation and the following other persons to apply for and obtain a license or finding of suitability:

(1) Any officer or director.

(2) Any owner, other than an institutional investor, of five percent or more of the outstanding shares of the corporation.

(c) This section shall become operative on the occurrence of one of the events specified in Section 66 of the act that added this section to the Business and Professions Code.

SEC. 20. Section 19846A is added to the Business and Professions Code, to read:

19846A. (a) Every person who, by statute or regulation, is required to hold a state license shall obtain the license prior to engaging in the activity or occupying the position with respect to which the license is required. Every person who, by order of the commission, is required to apply for a gambling license or a finding of suitability shall file the application within 30 calendar days after receipt of the order.

(b) This section shall become operative on the occurrence of one of the events specified in paragraphs (1) to (4), inclusive, of Section 66 of the act that added this section to the Business and Professions Code.

SEC. 21. Section 19847A is added to the Business and Professions Code, to read:

19847A. (a) Any person who the commission determines is qualified to receive a state license, having due consideration for the proper protection of the health, safety, and general welfare of the

residents of the State of California and the declared policy of this state, may be issued a license. The burden of proving his or her qualifications to receive any license is on the applicant.

(b) An application to receive a license constitutes a request for a determination of the applicant's general character, integrity, and ability to participate in, engage in, or be associated with, controlled gambling.

(c) In reviewing an application for any license, the commission shall consider whether issuance of the license is inimical to public health, safety, or welfare, and whether issuance of the license will undermine public trust that the gambling operations with respect to which the license would be issued are free from criminal and dishonest elements and would be conducted honestly.

(d) This section shall become operative on the occurrence of one of the events specified in paragraphs (1) to (4), inclusive, of Section 66 of the act that added this section to the Business and Professions Code.

SEC. 22. Section 19848A is added to the Business and Professions Code, to read:

19848A. No gambling license shall be issued unless, based on all of the information and documents submitted, the commission is satisfied that the applicant is all of the following:

(a) A person of good character, honesty, and integrity.

(b) A person whose prior activities, criminal record, if any, reputation, habits, and associations do not pose a threat to the public interest of this state, or to the effective regulation and control of controlled gambling, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of controlled gambling or in the carrying on of the business and financial arrangements incidental thereto.

(c) A person that is in all other respects qualified to be licensed as provided in this chapter.

(d) This section shall become operative on the occurrence of one of the events specified in Section 66 of the act that added this section to the Business and Professions Code.

SEC. 23. Section 19850A is added to the Business and Professions Code, to read:

19850A. (a) The commission shall deny a license to any applicant who is disqualified for any of the following reasons:

(1) Failure of the applicant to clearly establish eligibility and qualification in accordance with this chapter.

(2) Failure of the applicant to provide information, documentation, and assurances required by this chapter or requested by the director, or failure of the applicant to reveal any fact material to qualification, or the supplying of information that is untrue or misleading as to a material fact pertaining to the qualification criteria.

(3) Conviction of the applicant for any crime punishable as a felony.

(4) Conviction of the applicant for any misdemeanor involving dishonesty or moral turpitude within the 10-year period immediately preceding the submission of the application, unless the applicant has been granted relief pursuant to Section 1203.4, 1203.4a, or 1203.45 of the Penal Code.

(5) Association of the applicant with criminal profiteering activity or organized crime, as defined by Section 186.2 of the Penal Code.

(6) Contumacious defiance by the applicant of any legislative investigatory body, or other official investigatory body of any state or of the United States, when that body is engaged in the investigation of crimes relating to gambling; official corruption related to gambling activities; or criminal profiteering activity or organized crime, as defined by Section 186.2 of the Penal Code.

(7) The applicant is less than 21 years of age.

(b) This section shall become operative on the occurrence of one of the events specified in Section 66 of the act that added this section to the Business and Professions Code.

SEC. 24. Section 19851A is added to the Business and Professions Code, to read:

19851A. (a) The commission shall deny a gambling license with respect to any gambling establishment that is located in a city, county, or city and county that does not have an ordinance governing all of the following matters:

(1) The hours of operation of gambling establishments.

(2) Patron security and safety in and around the gambling establishments.

(3) The location of gambling establishments.

(4) Wagering limits in gambling establishments.

(5) The number of gambling tables in each gambling establishment and in the jurisdiction.

(b) This section shall become operative on the occurrence of one of the events specified in Section 66 of the act that added this section to the Business and Professions Code.

SEC. 25. Section 19852A is added to the Business and Professions Code, to read:

19852A. (a) In addition to other grounds stated in this chapter, the commission shall consider denying a gambling license for any of the following reasons:

(1) If issuance of the license with respect to the proposed gambling establishment or expansion would tend unduly to create law enforcement problems in a city, county, or city and county other than the city, county, or city and county that has regulatory jurisdiction over the applicant's premises.

(2) If an applicant fails to conduct an economic feasibility study that demonstrates to the satisfaction of the commission that the proposed gambling establishment will be economically viable, and

that the owners have sufficient resources to make the gambling establishment successful. The commission shall hold a public hearing for the purpose of reviewing the feasibility study.

(3) If issuance of the license is sought in respect to a new gambling establishment, or the expansion of an existing gambling establishment, that is to be located or is located near an existing school, an existing building used primarily as a place of worship, an existing playground or other area of juvenile congregation, an existing hospital, convalescence facility, or near another similarly unsuitable area, as determined by regulation of the commission, which is located in a city, county, or city and county other than the city, county, or city and county that has regulatory jurisdiction over the applicant's gambling premises.

(b) For the purposes of this section, "expansion" means an increase of 25 percent or more in the number of authorized gambling tables in a gambling establishment, based on the number of gambling tables for which a license was initially issued pursuant to this chapter.

(c) This section shall become operative on the occurrence of one of the events specified in Section 66 of the act that added this section to the Business and Professions Code.

SEC. 26. Section 19853A is added to the Business and Professions Code, to read:

19853A. (a) Application for a state license or other commission action shall be made on forms furnished by the commission.

(b) The application for a gambling license shall include all of the following:

(1) The name of the proposed licensee.

(2) The name and location of the proposed gambling establishment.

(3) The gambling games proposed to be conducted.

(4) The names of all persons directly or indirectly interested in the business and the nature of the interest.

(5) A description of the proposed gambling establishment and operation.

(6) Any other information and details the commission may require in order to discharge its duty properly.

(c) This section shall become operative on the occurrence of one of the events specified in Section 66 of the act that added this section to the Business and Professions Code.

SEC. 27. Section 19854A is added to the Business and Professions Code, to read:

19854A. (a) An applicant for licensing or for any approval or consent required by this chapter, shall make full and true disclosure of all information to the division and the commission as necessary to carry out the policies of this state relating to licensing, registration, and control of gambling.

(b) This section shall become operative on the occurrence of one of the events specified in Section 66 of the act that added this section to the Business and Professions Code.

SEC. 28. Section 19856A is added to the Business and Professions Code, to read:

19856A. (a) Within a reasonable time after the filing of an application and any supplemental information the division may require, and the deposit of any fee required pursuant to Section 19855, the division shall commence its investigation of the applicant and, for that purpose, may conduct any proceedings it deems necessary. To the extent practicable, all applications shall be acted upon within 180 calendar days of the date of submission of a completed application. If an investigation has not been concluded within 180 days after the date of submission of a completed application, the division shall inform the applicant in writing of the status of the investigation and shall also provide the applicant with an estimated date on which the investigation may reasonably be expected to be concluded.

(b) If denial of the application is recommended, the director shall prepare and file with the commission his or her written reasons upon which the recommendation is based.

(1) Prior to filing his or her recommendation with the commission, the director shall meet with the applicant, or the applicant's duly authorized representative, and inform him or her generally of the basis for any proposed recommendation that the application be denied, restricted, or conditioned.

(2) Not less than 10 business days prior to the meeting of the commission at which the application is to be considered, the division shall deliver to the applicant a summary of the director's final report and recommendation.

(3) Nothing herein shall require the division to divulge to the applicant any confidential information received from any law enforcement agency or any information received from any person with assurances that the information would be maintained confidential, and nothing herein shall require the division to divulge any information that might reveal the identity of any informer or jeopardize the safety of any person.

(c) A recommendation of denial of an application shall be without prejudice to a new and different application filed in accordance with applicable regulations.

(d) This section shall become operative on the occurrence of one of the events specified in Section 66 of the act that added this section to the Business and Professions Code.

SEC. 29. Section 19857A is added to the Business and Professions Code, to read:

19857A. (a) A request for withdrawal of any application may be made at any time prior to final action upon the application by the director by the filing of a written request to withdraw with the

commission. For the purposes of this section, final action by the division means a final determination by the director regarding his or her recommendation on the application to the commission. The commission shall not grant the request unless the applicant has established that withdrawal of the application would be consistent with the public interest and the policies of this chapter. If a request for withdrawal is denied, the division may go forward with its investigation and make a recommendation to the commission upon the application, and the commission may act upon the application as if no request for withdrawal had been made. If a request for withdrawal is granted with prejudice, the applicant thereafter shall be ineligible to renew its application until the expiration of one year from the date of the withdrawal. Unless the commission otherwise directs, no fee or other payment relating to any application is refundable by reason of withdrawal of an application.

(b) This section shall become operative on the occurrence of one of the events specified in Section 66 of the act that added this section to the Business and Professions Code.

SEC. 30. Section 19858A is added to the Business and Professions Code, to read:

19858A. (a) The commission, after considering the recommendation of the director and such other testimony and written comments as may be presented at the meeting, or as may have been submitted in writing to the commission prior to the meeting, may either deny the application or grant a license to an applicant who it determines to be qualified to hold the license.

(b) When the commission grants an application for a license or approval, the commission may limit or place restrictions thereon as it may deem necessary in the public interest, consistent with the policies described in this chapter.

(c) When an application is denied, the executive secretary shall prepare and file a detailed statement of the commission's reasons for the denial.

(d) All proceedings at a meeting of the commission relating to a license application shall be recorded stenographically or on audiotape.

(e) A decision of the commission denying a license or approval, or imposing any condition or restriction on the grant of a license or approval may be reviewed by petition pursuant to Section 1085 of the Code of Civil Procedure. Section 1094.5 of the Code of Civil Procedure shall not apply to any judicial proceeding described in the foregoing sentence, and the court may grant the petition only if the court finds that the action of the commission was arbitrary and capricious, or that the action exceeded the commission's jurisdiction.

(f) This section shall become operative on the occurrence of one of the events specified in Section 66 of the act that added this section to the Business and Professions Code.

SEC. 31. Section 19858.7A is added to the Business and Professions Code, to read:

19858.7A. (a) No member of the commission may communicate ex parte, directly or indirectly, with any applicant, or any agent, representative, or person acting on behalf of an applicant, upon the merits of an application for a license, permit, registration, or approval while the application is pending disposition before the division or the commission.

(b) No applicant, or any agent, representative, or person acting on behalf of an applicant, and no person who has a direct or indirect interest in the outcome of a proceeding to consider an application for a license, permit, registration, or approval may communicate ex parte, directly or indirectly, with any member of the commission, upon the merits of the application while the application is pending disposition before the division.

(c) No employee or agent of the division, applicant, or any agent, representative, or person acting on behalf of an applicant, and no person who has a direct or indirect interest in the outcome of a proceeding to consider an application for a license, permit, registration, or approval may communicate ex parte, directly or indirectly, with any member of the commission, upon the merits of the application, while the application is pending disposition before the commission.

(d) The receipt by a member of the commission of an ex parte communication prohibited by this section may provide the basis for disqualification of that member or the denial of the application. The commission shall adopt regulations to implement this subdivision.

(e) For the purposes of this subdivision, “ex parte” means a communication without notice and opportunity for all parties to participate in the communication.

(f) This section shall become operative on the occurrence of one of the events specified in Section 66 of the act that added this section to the Business and Professions Code.

SEC. 32. Section 19860A is added to the Business and Professions Code, to read:

19860A. (a) Subject to subdivision (b) of Section 19840.5, the commission shall issue and deliver to the applicant a license entitling the applicant to engage in the activity for which the license is issued, together with an enumeration of any specific terms and conditions of the license if both of the following conditions have been met:

(1) The commission is satisfied that the applicant is eligible and qualified to receive the license.

(2) All license fees required by statute and by regulations of the commission have been paid.

(b) This section shall become operative on the occurrence of one of the events specified in Section 66 of the act that added this section to the Business and Professions Code.

SEC. 33. Section 19862A is added to the Business and Professions Code, to read:

19862A. (a) Subject to the power of the commission to deny, revoke, suspend, condition, or limit any license, as provided in this chapter, a license shall be renewed annually by the commission from the date of issuance, upon proper application for renewal and payment of state license fees as required by statute or regulation.

(b) An application for renewal of a gambling license shall be filed by the owner licensee with the commission no later than 120 calendar days prior to the expiration of the current license, and all license fees shall be paid to the commission on or before the expiration of the current license. The commission shall act upon any application for renewal prior to the date of expiration of the current license. Upon renewal of any owner license, the commission shall issue an appropriate renewal certificate or validating device or sticker.

(c) Unless the commission determines otherwise, renewal of an owner's gambling license shall be deemed to effectuate the renewal of every other gambling license endorsed thereon.

(d) In addition to the penalties provided by law, any owner licensee who deals, operates, carries on, conducts, maintains, or exposes for play any gambling game after the expiration date of the gambling license is liable to the state for all license fees and penalties that would have been due upon renewal.

(e) If an owner licensee fails to renew the gambling license as provided in this chapter, the commission may order the immediate closure of the premises and a cessation of all gambling activity therein until the license is renewed.

(f) This section shall become operative on the occurrence of one of the events specified in Section 66 of the act that added this section to the Business and Professions Code.

SEC. 34. Section 19863A is added to the Business and Professions Code, to read:

19863A. (a) Neither an owner licensee, nor a California affiliate of an owner licensee, shall enter into, without prior approval of the commission, any contract or agreement with a person who is denied a license, or whose license is suspended or revoked by the commission, or with any business enterprise under the control of that person, after the date of receipt of notice of the action by the division.

(b) An owner licensee or an affiliate of the owner licensee shall not employ, without prior approval of the commission, any person in any capacity for which he or she is required to be licensed, if the person has been denied a license, or if his or her license has been suspended or revoked after the date of receipt of notice of the action by the commission. Neither an owner licensee, nor a California affiliate of an owner licensee, without prior approval of the commission, shall enter into any contract or agreement with a person whose application has been withdrawn with prejudice, or with any business enterprise under the control of that person, for the period of time

during which the person is prohibited from filing a new application for licensure.

(c) (1) If an employee who is required to be licensed pursuant to this chapter fails to apply for a license within the time specified by regulation, is denied a license, or has his or her license revoked by the commission, the employee shall be terminated in any capacity in which he or she is required to be licensed and he or she shall not be permitted to exercise a significant influence over the gambling operation, or any part thereof, upon being notified of that action.

(2) If an employee who is required to be licensed pursuant to this chapter has his or her license suspended, the employee shall be suspended in any capacity in which he or she is required to be licensed and shall not be permitted to exercise a significant influence over the gambling operation, or any part thereof, during the period of suspension, upon being notified of that action.

(3) If the owner licensee designates another employee to replace the employee whose employment was terminated, the owner licensee shall promptly notify the division and shall require the newly designated employee to apply for a license.

(d) An owner licensee or an affiliate of the owner licensee shall not pay to a person whose employment has been terminated pursuant to subdivision (c) any remuneration for any service performed in any capacity in which the person is required to be licensed except for amounts due for services rendered before the date of receipt of notice of the action by the division. Neither an owner licensee, nor an affiliate thereof, during the period of suspension, shall pay to a person whose employment has been suspended pursuant to subdivision (c), any remuneration for any service performed in any capacity in which the person is required to be licensed, except for amounts due for services rendered before the date of receipt of notice of the action by the division.

(e) Except as provided in subdivision (c), a contract or agreement for the provision of services or property to an owner licensee or an affiliate thereof, or for the conduct of any activity at a gambling establishment, which is to be performed by a person required by this chapter or by the division to be licensed, shall be terminated upon a suspension or revocation of the person's license.

(f) In any case in which a contract or agreement for the provision of services or property to an owner licensee or an affiliate thereof, or for the conduct of any activity at a gambling establishment, is to be performed by a person required by this chapter or by the commission to be licensed, the contract shall be deemed to include a provision for its termination without liability on the part of the owner licensee or its duly registered holding company upon a suspension or revocation of the person's license. In any action brought by the division to terminate a contract pursuant to subdivision (c) or (e), it shall not be a defense that the agreement does not expressly include the provision described in this subdivision, and the lack of express

inclusion of the provision in the agreement shall not be a basis for enforcement of the contract by a party thereto.

(g) This section shall become operative on the occurrence of one of the events specified in Section 66 of the act that added this section to the Business and Professions Code.

SEC. 35. Section 19864A is added to the Business and Professions Code, to read:

19864A. (a) With regard to a person who has had his or her application for a license denied by the commission, all of the following shall apply:

(1) Except as provided in paragraph (3), the person shall not be entitled to profit from his or her investment in any business entity that has applied for or been granted a state license.

(2) The person shall not retain his or her interest in a business entity described in paragraph (1) beyond that period prescribed by the commission.

(3) The person shall not accept more for his or her interest in a business entity described in paragraph (1) than he or she paid for it, or the market value on the date of the denial of the license or registration, whichever is higher.

(4) Nothing in this section shall be construed as a restriction or limitation on the powers of the commission specified in this chapter.

(b) This section shall become operative on the occurrence of one of the events specified in Section 66 of the act that added this section to the Business and Professions Code.

SEC. 36. Section 19871A is added to the Business and Professions Code, to read:

19871A. (a) No corporation is eligible to receive a license to own a gambling enterprise unless the conduct of controlled gambling is among the purposes stated in its articles of incorporation and the articles of incorporation have been submitted to and approved by the commission.

(b) On and after the effective date of this section, the Secretary of State shall not accept for filing any articles of incorporation of any corporation that include as a stated purpose the conduct of controlled gambling, or any amendment thereto, or any amendment that adds this purpose to articles of incorporation already filed, unless the articles have, or amendment has, been approved by the commission.

(c) This section shall become operative on the occurrence of one of the events specified in Section 66 of the act that added this section to the Business and Professions Code.

SEC. 37. Section 19872A is added to the Business and Professions Code, to read:

19872A. (a) If at any time the commission denies a license to an individual owner of any security issued by a corporation that applies for or holds an owner license, the owner of the security shall immediately offer the security to the issuing corporation for purchase. The corporation shall purchase the security so offered, for

cash in an amount not greater than fair market value, within 30 calendar days after the date of the offer.

(b) Beginning upon the date when the division serves notice of the denial upon the corporation, it is unlawful for the denied security owner to do any of the following:

(1) Receive any dividend or interest upon any security described in subdivision (a).

(2) Exercise, directly or through any trustee or nominee, any voting right conferred by any security described in subdivision (a).

(3) Receive any remuneration in any form from the corporation for services rendered or for any other purpose.

(c) Every security issued by a corporate owner licensee shall bear a statement, on both sides of the certificate evidencing the security, of the restrictions imposed by this section.

(d) This section shall become operative on the occurrence of one of the events specified in Section 66 of the act that added this section to the Business and Professions Code.

SEC. 38. Section 19882A is added to the Business and Professions Code, to read:

19882A. (a) The purported sale, assignment, transfer, pledge, or other disposition of any interest in a limited partnership that holds a gambling license, or the grant of an option to purchase the interest, is void unless approved in advance by the commission.

(b) If at any time the commission denies a license to an individual owner of any interest described in subdivision (a), the division shall immediately notify the partnership of that fact. The limited partnership, within 30 calendar days from the date it receives the notice from the division, shall return to the denied owner of the interest, in cash, the amount of his or her capital account as reflected on the books of the partnership.

(c) Beginning upon the date when the commission serves a notice of denial upon the limited partnership, it is unlawful for the denied owner of the interest to do any of the following:

(1) Receive any share of the revenue or interest upon the limited partnership interest.

(2) Exercise, directly or through any trustee or nominee, any voting right conferred by that interest.

(3) Receive any remuneration in any form from the limited partnership, for services rendered or for any other purpose.

(d) Every certificate of limited partnership of any limited partnership holding a gambling license shall contain a statement of the restrictions imposed by this section.

(e) This section shall become operative on the occurrence of one of the events specified in Section 66 of the act that added this section to the Business and Professions Code.

SEC. 39. Section 19883A is added to the Business and Professions Code, to read:

19883A. (a) To the extent required by this chapter, general partners, limited partners, lenders, holders of evidence of indebtedness, underwriters, agents, or employees of a limited partnership that holds or applies for a license to own a gambling enterprise shall be licensed individually. The limited partnership shall require these persons to apply for and obtain a gambling license. A person who is required to be licensed by this section as a general or limited partner shall not hold that position until he or she secures the required approval of the commission. A person who is required to be licensed pursuant to a decision of the commission shall apply for a license within 30 days after the commission requests him or her to do so.

(b) This section shall become operative on the occurrence of one of the events specified in Section 66 of the act that added this section to the Business and Professions Code.

SEC. 40. Article 7 (commencing with Section 19900A) is added to Chapter 5 of Division 8 of the Business and Professions Code, to read:

Article 7. Restrictions on Certain Transactions

19900A. (a) Except as may be provided by regulation of the division, the following security interests shall not be enforced without the prior approval of the commission and compliance with regulations adopted pursuant to subdivision (b):

(1) In a security issued by a corporation that is a holder of a gambling license in this state.

(2) In a security issued by a holding company that is not a publicly traded corporation.

(3) In a security issued by a partnership that is a holder of a gambling license in this state.

(b) The division shall adopt regulations establishing the procedure for the enforcement of a security interest. Any remedy provided by the regulations for the enforcement of the security interest is in addition to any other remedy provided by law.

19901A. It is unlawful for any person to sell, purchase, lease, hypothecate, borrow or loan money, or create a voting trust agreement or any other agreement of any sort to, or with, any licensee in connection with any controlled gambling operation licensed under this chapter or with respect to any portion of the gambling operation, except in accordance with the regulations of the commission.

19902A. When any person contracts to sell or lease any property or interest in property, real or personal, under circumstances that require the approval or licensing of the purchaser or lessee by the commission pursuant to subdivision (a) of Section 19842, the contract shall not specify a closing date for the transaction that is earlier than the expiration of 90 calendar days after the submission of the

completed application for approval for licensing. Any provision of a contract that specifies an earlier closing date is void for all purposes, but the invalidity does not affect the validity of any other provision of the contract.

19903A. When any person contracts to sell or lease any property or interest in property, real or personal, under circumstances that require the approval or licensing of the purchaser or lessee by the commission pursuant to subdivision (a) of Section 19842A, the contract shall contain a provision satisfactory to the commission regarding responsibility for the payment of any fees due pursuant to any subsequent deficiency determinations made under this chapter that shall encompass any period of time before the closing date of the transaction.

19904A. The purported sale, assignment, transfer, pledge, or other disposition of any security issued by a corporation that holds a gambling license, or the grant of an option to purchase that security, is void unless approved in advance by the commission.

19905A. Every owner licensee that is involved in a transaction for the extension or redemption of credit by the licensee, or for the payment, receipt, or transfer of coin, currency, or other monetary instruments, as specified by the commission, in an amount, denomination, or amount and denomination, or under circumstances prescribed by regulations, and any other participant in the transaction, as specified by the commission, shall, if required by regulation, make and retain a record of, or file with the division a report on, the transaction, at the time and in the manner prescribed by regulations.

19906A. This article shall become operative on the occurrence of one of the events specified in Section 66 of the act that added this section to the Business and Professions Code.

SEC. 41. Section 19910.5A is added to the Business and Professions Code, to read:

19910.5A. (a) (1) A person shall not be employed as a gambling enterprise employee, or serve as an independent agent, except as provided in paragraph (2), unless he or she is the holder of one of the following:

(A) A valid work permit issued in accordance with the applicable ordinance or regulations of the county, city, or city and county in which his or her duties are performed.

(B) A work permit issued by the commission.

(2) An independent agent is not required to hold a work permit if he or she is not a resident of this state and has registered with the division in accordance with regulations.

(b) A work permit shall not be issued by any city, county, or city and county to any person who would be disqualified from holding a state gambling license for the reasons specified in paragraphs (1) to (7), inclusive, of subdivision (a) of Section 19850.

(c) The division may object to the issuance of a work permit by a city, county, or city and county for any cause deemed reasonable by the division, and if the division objects to issuance of a work permit, the work permit shall be denied.

(1) The commission shall adopt regulations specifying particular grounds for objection to issuance of, or refusal to issue, a work permit.

(2) The ordinance of any city, county, or city and county relating to issuance of work permits shall permit the division to object to the issuance of any permit.

(3) Any person whose application for a work permit has been denied because of an objection by the division may apply to the commission for an evidentiary hearing in accordance with regulations.

(d) Application for a work permit for use in any jurisdiction where a locally issued work permit is not required by the licensing authority of a city, county, or city and county shall be made to the division, and may be granted or denied for any cause deemed reasonable by the commission. If the commission denies the application, it shall include in its notice of denial a statement of facts upon which it relied in denying the application.

(e) An order of the commission denying an application for a work permit, including an order declining to issue a work permit following review pursuant to paragraph (3) of subdivision (c), may be reviewed in accordance with subdivision (e) of Section 19858.

(f) This section shall become operative on the occurrence of one of the events specified in Section 66 of the act that added this section to the Business and Professions Code.

SEC. 42. Section 19911A is added to the Business and Professions Code, to read:

19911A. (a) The commission may issue an order summarily suspending a person's work permit, whether issued by a city, county, or city and county, or by the commission, upon a finding that the suspension is necessary for the immediate preservation of the public peace, health, safety, or general welfare. The order is effective when served upon the holder of the permit.

(b) The order of summary suspension shall state facts upon which the finding of necessity for the suspension is based. For the purposes of this section, the order of summary suspension shall be deemed an accusation.

(c) An order of summary suspension shall be signed by at least three members of the commission.

(d) The person whose work permit is summarily suspended has a right to a hearing to commence not more than 30 calendar days from the date of service of the suspension.

(e) This section shall become operative on the occurrence of one of the events specified in Section 66 of the act that added this section to the Business and Professions Code.

SEC. 43. Section 19912A is added to the Business and Professions Code, to read:

19912A. (a) The commission may revoke a work permit or, if issued by the licensing authority of a city, county, or city and county, notify the authority to revoke it, and the licensing authority shall revoke it, if the commission finds, after a hearing, that a gambling enterprise employee or independent agent has failed to disclose, misstated, or otherwise misled the division or the commission with respect to any fact contained in any application for a work permit, or if the commission finds that the employee or independent agent, subsequent to being issued a work permit, has done any of the following:

(1) Committed, attempted, or conspired to do any acts prohibited by this chapter.

(2) Engaged in any dishonest, fraudulent, or unfairly deceptive activities in connection with controlled gambling, or knowingly possessed or permitted to remain in or upon any premises any cards, dice, mechanical devices, or any other cheating device.

(3) Concealed or refused to disclose any material fact in any investigation by the division.

(4) Committed, attempted, or conspired to commit, any embezzlement or larceny against a gambling licensee or upon the premises of a gambling establishment.

(5) Been convicted in any jurisdiction of any offense involving or relating to gambling.

(6) Accepted employment without prior commission approval in a position for which he or she could be required to be licensed under this chapter after having been denied a license or after failing to apply for licensing when requested to do so by the commission.

(7) Been refused the issuance of any license, permit, or approval to engage in or be involved with gambling or parimutuel wagering in any jurisdiction, or had the license, permit, or approval revoked or suspended.

(8) Been prohibited under color of governmental authority from being present upon the premises of any licensed gambling establishment or any establishment where parimutuel wagering is conducted, for any reason relating to improper gambling activities or any illegal act.

(9) Been convicted of any felony.

(b) The commission shall revoke a work permit if it finds, after hearing, that the holder thereof would be disqualified from holding a state gambling license for the reasons specified in paragraph (6) or (7) of subdivision (a) of Section 19850A.

(c) Nothing in this section shall be construed to limit any powers of the commission with respect to licensing.

(d) This section shall become operative on the occurrence of one of the events specified in Section 66 of the act that added this section to the Business and Professions Code.

SEC. 44. Section 19913A is added to the Business and Professions Code, to read:

19913A. (a) The fee for a work permit issued by the commission shall be not less than twenty-five dollars ($25) or more than two hundred fifty dollars ($250).

(b) This section shall become operative on the occurrence of one of the events specified in Section 66 of the act that added this section to the Business and Professions Code.

SEC. 45. Section 19915A is added to the Business and Professions Code, to read:

19915A. (a) It is the policy of the State of California to require that all establishments wherein controlled gambling is conducted in this state be operated in a manner suitable to protect the public health, safety, and general welfare of the residents of the state. The responsibility for the employment and maintenance of suitable methods of operation rests with the owner licensee, and willful or persistent use or toleration of methods of operation deemed unsuitable by the commission or by local government shall constitute grounds for license revocation or other disciplinary action.

(b) This section shall become operative on the occurrence of one of the events specified in Section 66 of the act that added this section to the Business and Professions Code.

SEC. 46. Section 19918A is added to the Business and Professions Code, to read:

19918A. (a) Each owner licensee shall maintain security controls over the gambling premises and all operations therein related to gambling, and those security controls are subject to the approval of the commission.

(b) This section shall become operative on the occurrence of one of the events specified in Section 66 of the act that added this section to the Business and Professions Code.

SEC. 47. Section 19920A is added to the Business and Professions Code, to read:

19920A. (a) The division shall make appropriate investigations as follows:

(1) Determine whether there has been any violation of this chapter or any regulations adopted thereunder.

(2) Determine any facts, conditions, practices, or matters that it may deem necessary or proper to aid in the enforcement of this chapter or any regulation adopted thereunder.

(3) To aid in adopting regulations.

(4) To secure information as a basis for recommending legislation relating to this chapter.

(b) If, after any investigation, the division is satisfied that a license, permit, finding of suitability, or approval should be suspended or revoked, it shall file an accusation with the commission in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(c) In addition to any action that the commission may take against a license, permit, finding of suitability, or approval, the commission may also require the payment of fines or penalties. However, no fine imposed shall exceed twenty thousand dollars ($20,000) for each separate violation of any provision of this chapter or any regulation adopted thereunder.

(d) This section shall become operative on the occurrence of one of the events specified in Section 66 of the act that added this section to the Business and Professions Code.

SEC. 48. Section 19921A is added to the Business and Professions Code, to read:

19921A. (a) The commission may issue any emergency orders against an owner licensee or any person involved in a transaction requiring prior approval that the division deems reasonably necessary for the immediate preservation of the public peace, health, safety, or general welfare.

(b) The emergency order shall set forth the grounds upon which it is based, including a statement of facts constituting the alleged emergency necessitating the action.

(c) The emergency order is effective immediately upon issuance and service upon the owner licensee or any agent of the licensee registered with the division for receipt of service, or, in cases involving prior approval, upon issuance and service upon the person or entity involved, or upon an agent of that person or entity authorized to accept service of process in this state. The emergency order may suspend, limit, condition, or take other action in relation to the license of one or more persons in an operation without affecting other individual licensees, registrants, or the licensed gambling establishment. The emergency order remains effective until further order of the commission or final disposition of any proceeding conducted pursuant to subdivision (d).

(d) Within two calendar days after issuance of an emergency order, the division shall file an accusation with the commission against the person or entity involved. Thereafter, the person or entity against whom the emergency order has been issued and served is entitled to a hearing which, if so requested, shall commence within 10 business days of the date of the request if a gambling operation is closed by the order, and in all other cases, within 30 calendar days of the date of the request. On application of the division, and for good cause shown, a court may extend the time within which a hearing is required to be commenced, upon those terms and conditions that the court deems equitable.

(e) This section shall become operative on the occurrence of one of the events specified in Section 66 of the act that added this section to the Business and Professions Code.

SEC. 49. Section 19933.5A is added to the Business and Professions Code, to read:

19933.5A. (a) Except as specified in subdivision (c), this section applies to any person or business that is engaged in controlled gambling, whether or not licensed to do so.

(b) Any person or business described in subdivision (a), with actual knowledge of the requirements of regulations adopted by the commission pursuant to subdivision (d) of Section 19834A, that knowingly and willfully fails to comply with the requirements of those regulations shall be liable for a monetary penalty. The commission may impose a monetary penalty for each violation. However, in the first proceeding that is initiated pursuant to this subdivision, the penalties for all violations shall not exceed a total sum of ten thousand dollars ($10,000). If a penalty was imposed in a prior proceeding before the commission or its predecessor, the California Gambling Control Board, the penalties for all violations shall not exceed a total sum of twenty-five thousand dollars ($25,000). If a penalty was imposed in two or more prior proceedings before the commission or its predecessor, the California Gambling Control Board, the penalties for all violations shall not exceed a total sum of one hundred thousand dollars ($100,000).

(c) This section does not apply to any case where the person is criminally prosecuted in federal or state court for conduct related to a violation of Section 14162 of the Penal Code.

(d) This section shall become operative on the occurrence of one of the events specified in Section 66 of the act that added this section to the Business and Professions Code.

SEC. 50. Section 19942A is added to the Business and Professions Code, to read:

19942A. (a) The commission, by regulation, shall establish fees for special licenses authorizing irregular operation of tables in excess of the total number of tables otherwise authorized to a licensed gambling establishment, for tournaments and other special events.

(b) This section shall become operative on the occurrence of one of the events specified in Section 66 of the act that added this section to the Business and Professions Code.

SEC. 51. Section 19959.5A is added to the Business and Professions Code, to read:

19959.5A. (a) A member of the commission, the executive secretary of the commission, the director of the division, and any employee designated by regulation of the commission or the division for purposes of this section, shall not, for a period of three years after leaving office or terminating employment, for compensation, act as agent or attorney for, or otherwise represent, any other person by making any formal or informal appearance, or by making any oral or written communication, before the commission or the division, or any officer or employee thereof, if the appearance or communication is for the purpose of influencing administrative action, or influencing any action or proceeding involving the issuance, amendment, awarding, or revocation of a permit, license, or approval.

(b) A member of the commission shall not solicit or accept campaign contributions from any person, including any applicant or licensee.

(c) This section shall become operative on the occurrence of one of the events specified in Section 66 of the act that added this section to the Business and Professions Code.

SEC. 52. Section 19960.2A is added to the Business and Professions Code, to read:

19960.2A. (a) A license may be denied, suspended, or revoked if the applicant or licensee, within three years prior to the submission of the license or renewal application, or any time thereafter, violates any law or ordinance with respect to campaign finance disclosure or contribution limitations applicable to an election that is conducted pursuant to Section 19950 or pursuant to former Section 19819, as that section read immediately prior to its repeal by the act that enacted this chapter.

(1) The remedies specified herein are in addition to any other remedy or penalty provided by law.

(2) Any final determination by the Fair Political Practices Commission that the applicant did not violate any provision of state law within its jurisdiction shall be binding on the commission.

(3) Any final determination by a city or county governmental body having ultimate jurisdiction over the matter that the applicant did not violate an ordinance with respect to campaign finance disclosure or contribution limitations applicable to an election conducted pursuant to Section 19950, or former Section 19819, as that section read immediately prior to its repeal by the act that enacted this chapter, shall be binding on the commission.

(b) Every applicant for a gambling license, or any renewal thereof, shall file with the division, at the time the license application or renewal is filed, the following information:

(1) Any statement or other document required to be filed with the Fair Political Practices Commission relative to an election that is conducted pursuant to Section 19950, or former Section 19819, as that section read immediately prior to its repeal by the act that enacted this chapter, within three years of the date on which the application is submitted.

(2) Any statement or other document required to be filed with any local jurisdiction respecting campaign finance disclosure or contribution limitations applicable to an election that is conducted pursuant to Section 19950, or former Section 19819, as that section read immediately prior to its repeal by the act that enacted this chapter, within three years of the date on which the application is submitted.

(3) A report of any contribution of money or thing of value, in excess of one hundred dollars ($100), made to any committee, as defined by Section 82013 of the Government Code, associated with any election that is conducted pursuant to Section 19950, or former

Section 19819, as that section read immediately prior to its repeal by the act that enacted this chapter, within three years of the date on which the application is submitted.

(4) A report of any other significant involvement by the applicant or licensee in an election that is conducted pursuant to Section 19950, or former Section 19819, as that section read immediately prior to its repeal by the act that enacted this chapter, within three years of the date on which the application is submitted.

(c) The commission shall adopt regulations to implement this section.

(d) This section shall become operative on the occurrence of one of the events specified in Section 66 of the act that added this section to the Business and Professions Code.

SEC. 53. Section 1822.60 is added to the Code of Civil Procedure, to read:

1822.60. A warrant may be issued under the requirements of this title to authorize personnel of the Division of Gambling Control of the Department of Justice to conduct inspections as provided in subdivision (a) of Section 19825 of the Business and Professions Code.

SEC. 55. Section 15001 of the Government Code is amended to read:

15001. The department is composed of the Office of the Attorney General, the Division of Law Enforcement, and the Division of Gambling Control.

SEC. 56. Section 15001.1 is added to the Government Code, to read:

15001.1. The Division of Gambling Control is responsible for investigation and enforcement of controlled gambling activity in this state as set forth in the Gambling Control Act (Chapter 5 (commencing with Section 19800) of Division 8 of the Business and Professions Code).

SEC. 57. Section 15001.2 is added to the Government Code, to read:

15001.2. Any process issued by the Division of Gambling Control for purposes of implementing and enforcing the Gambling Control Act (Chapter 5 (commencing with Section 19800) of Division 8 of the Business and Professions Code) may be issued in the name of the division. Any hearing conducted by the Attorney General for these purposes may be styled as conducted before the division.

SEC. 58. Section 186.9 of the Penal Code is amended to read:

186.9. As used in this chapter:

(a) “Conducts” includes, but is not limited to, initiating, concluding, or participating in conducting, initiating, or concluding a transaction.

(b) “Financial institution” means, when located or doing business in this state, any national bank or banking association, state bank or banking association, commercial bank or trust company organized under the laws of the United States or any state, any private bank,

industrial savings bank, savings bank or thrift institution, savings and loan association, or building and loan association organized under the laws of the United States or any state, any insured institution as defined in Section 401 of the National Housing Act (12 U.S.C. Sec. 1724(a)), any credit union organized under the laws of the United States or any state, any national banking association or corporation acting under Chapter 6 (commencing with Section 601) of Title 12 of the United States Code, any agency, agent or branch of a foreign bank, any currency dealer or exchange, any person or business engaged primarily in the cashing of checks, any person or business who regularly engages in the issuing, selling, or redeeming of traveler's checks, money orders, or similar instruments, any broker or dealer in securities registered or required to be registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934 or with the Commissioner of Corporations under Part 3 (commencing with Section 25200) of Division 1 of Title 4 of the Corporations Code, any licensed transmitter of funds or other person or business regularly engaged in transmitting funds to a foreign nation for others, any investment banker or investment company, any insurer, any dealer in gold, silver, or platinum bullion or coins, diamonds, emeralds, rubies, or sapphires, any pawnbroker, any telegraph company, any personal property broker, any person or business acting as a real property securities dealer within the meaning of Section 10237 of the Business and Professions Code, whether licensed to do so or not, any person or business acting within the meaning and scope of subdivisions (d) and (e) of Section 10131 and Section 10131.1 of the Business and Professions Code, whether licensed to do so or not, any person or business regularly engaged in gaming within the meaning and scope of Section 330, any person or business regularly engaged in pool selling or bookmaking within the meaning and scope of Section 337a, any person or business regularly engaged in horseracing whether licensed to do so or not under the Business and Professions Code, any person or business engaged in the operation of a gambling ship within the meaning and scope of Section 11317, any person or business engaged in controlled gambling within the meaning and scope of subdivision (d) of Section 19805 of the Business and Professions Code, whether registered to do so or not, and any person or business defined as a "bank," "financial agency," or "financial institution" by Section 5312 of Title 31 of the United States Code or Section 103.11 of Title 31 of the Code of Federal Regulations and any successor provisions thereto.

(c) "Transaction" includes the deposit, withdrawal, transfer, bailment, loan, pledge, payment, or exchange of currency, or a monetary instrument, as defined by subdivision (d), or the electronic, wire, magnetic, or manual transfer of funds between accounts by, through, or to, a financial institution as defined by subdivision (b).

(d) “Monetary instrument” means United States currency and coin; the currency, coin, and foreign bank drafts of any foreign country; payment warrants issued by the United States, this state, or any city, county, or city and county of this state or any other political subdivision thereof; any bank check, cashier’s check, traveler’s check, personal check, money order, stock, investment security, or negotiable instrument in bearer form or otherwise in such form that title thereto passes upon delivery; gold, silver, or platinum bullion or coins; and diamonds, emeralds, rubies, or sapphires. Except for foreign bank drafts and federal, state, county, or city warrants, “monetary instrument” does not include bank checks, cashier’s checks, traveler’s checks, personal checks, or money orders made payable to the order of a named party which have not been endorsed or which bear restrictive endorsements, and also does not include personal checks which have been endorsed by the named party and deposited by the named party into the named party’s account with a financial institution.

(e) “Criminal activity” means a criminal offense punishable under the laws of this state by death or imprisonment in the state prison or from a criminal offense committed in another jurisdiction punishable under the laws of that jurisdiction by death or imprisonment for a term exceeding one year.

(f) “Foreign bank draft” means a bank draft or check issued or made out by a foreign bank, savings and loan, casa de cambio, credit union, currency dealer or exchanger, check cashing business, money transmitter, insurance company, investment or private bank, or any other foreign financial institution that provides similar financial services, on an account in the name of the foreign bank or foreign financial institution held at a bank or other financial institution located in the United States or a territory of the United States.

SEC. 58.5. Section 186.9 of the Penal Code is amended to read:

186.9. As used in this chapter:

(a) “Conducts” includes, but is not limited to, initiating, concluding, or participating in conducting, initiating, or concluding a transaction.

(b) “Financial institution” means, when located or doing business in this state, any national bank or banking association, state bank or banking association, commercial bank or trust company organized under the laws of the United States or any state, any private bank, industrial savings bank, savings bank or thrift institution, savings and loan association, or building and loan association organized under the laws of the United States or any state, any insured institution as defined in Section 401 of the National Housing Act (12 U.S.C. Sec. 1724(a)), any credit union organized under the laws of the United States or any state, any national banking association or corporation acting under Chapter 6 (commencing with Section 601) of Title 12 of the United States Code, any agency, agent or branch of a foreign bank, any currency dealer or exchange, any person or business

engaged primarily in the cashing of checks, any person or business who regularly engages in the issuing, selling, or redeeming of traveler's checks, money orders, or similar instruments, any broker or dealer in securities registered or required to be registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934 or with the Commissioner of Corporations under Part 3 (commencing with Section 25200) of Division 1 of Title 4 of the Corporations Code, any licensed transmitter of funds or other person or business regularly engaged in transmitting funds to a foreign nation for others, any investment banker or investment company, any insurer, any dealer in gold, silver, or platinum bullion or coins, diamonds, emeralds, rubies, or sapphires, any pawnbroker, any telegraph company, any person or business regularly engaged in the delivery, transmittal, or holding of mail or packages, any person or business that conducts a transaction involving the transfer of title to any real property, vehicle, vessel, or aircraft, any personal property broker, any person or business acting as a real property securities dealer within the meaning of Section 10237 of the Business and Professions Code, whether licensed to do so or not, any person or business acting within the meaning and scope of subdivisions (d) and (e) of Section 10131 and Section 10131.1 of the Business and Professions Code, whether licensed to do so or not, any person or business regularly engaged in gaming within the meaning and scope of Section 330, any person or business regularly engaged in pool selling or bookmaking within the meaning and scope of Section 337a, any person or business regularly engaged in horseracing whether licensed to do so or not under the Business and Professions Code, any person or business engaged in the operation of a gambling ship within the meaning and scope of Section 11317, any person or business engaged in controlled gambling within the meaning and scope of subdivision (d) of Section 19805 of the Business and Professions Code, whether registered to do so or not, and any person or business defined as a "bank," "financial agency," or "financial institution" by Section 5312 of Title 31 of the United States Code or Section 103.11 of Title 31 of the Code of Federal Regulations and any successor provisions thereto.

(c) "Transaction" includes the deposit, withdrawal, transfer, bailment, loan, pledge, payment, or exchange of currency, or a monetary instrument, as defined by subdivision (d), or the electronic, wire, magnetic, or manual transfer of funds between accounts by, through, or to, a financial institution as defined by subdivision (b).

(d) "Monetary instrument" means United States currency and coin; the currency, coin, and foreign bank drafts of any foreign country; payment warrants issued by the United States, this state, or any city, county, or city and county of this state or any other political subdivision thereof; any bank check, cashier's check, traveler's check, or money order; any personal check, stock, investment security, or

negotiable instrument in bearer form or otherwise in a form in which title thereto passes upon delivery; gold, silver, or platinum bullion or coins; and diamonds, emeralds, rubies, or sapphires. Except for foreign bank drafts and federal, state, county, or city warrants, "monetary instrument" does not include personal checks made payable to the order of a named party which have not been endorsed or which bear restrictive endorsements, and also does not include personal checks which have been endorsed by the named party and deposited by the named party into the named party's account with a financial institution.

(e) "Criminal activity" means a criminal offense punishable under the laws of this state by death or imprisonment in the state prison or from a criminal offense committed in another jurisdiction punishable under the laws of that jurisdiction by death or imprisonment for a term exceeding one year.

(f) "Foreign bank draft" means a bank draft or check issued or made out by a foreign bank, savings and loan, casa de cambio, credit union, currency dealer or exchanger, check cashing business, money transmitter, insurance company, investment or private bank, or any other foreign financial institution that provides similar financial services, on an account in the name of the foreign bank or foreign financial institution held at a bank or other financial institution located in the United States or a territory of the United States.

SEC. 59. Section 337j is added to the Penal Code, to read:

337j. (a) It is unlawful for any person, as owner, lessee, or employee, whether for hire or not, either solely or in conjunction with others, to do any of the following without having first procured and thereafter maintained in effect all federal, state, and local licenses required by law:

(1) To deal, operate, carry on, conduct, maintain, or expose for play in this state any controlled game.

(2) To receive, directly or indirectly, any compensation or reward or any percentage or share of the revenue, for keeping, running, or carrying on any controlled game.

(3) To manufacture, distribute, or repair any gambling equipment within the boundaries of this state, or to receive, directly or indirectly, any compensation or reward for the manufacture, distribution, or repair of any gambling equipment within the boundaries of this state.

(b) It is unlawful for any person to knowingly permit any controlled game to be conducted, operated, dealt, or carried on in any house or building or other premises that he or she owns or leases, in whole or in part, if that activity is undertaken by a person who is not licensed as required by state law, or by an employee of that person.

(c) It is unlawful for any person to knowingly permit any gambling equipment to be manufactured, stored, or repaired in any house or building or other premises that the person owns or leases,

in whole or in part, if that activity is undertaken by a person who is not licensed as required by state law, or by an employee of that person.

(d) Any person who violates, attempts to violate, or conspires to violate this section shall be punished by imprisonment in a county jail for not more than one year, or by a fine of not more than five thousand dollars ($5,000), or by both that imprisonment and fine.

(e) (1) As used in this section, "controlled game" means any game of chance, including any gambling device, played for currency, check, credit, or any other thing of value that is not prohibited and made unlawful by statute or local ordinance.

(2) As used in this section, "controlled game" does not include any of the following:

(A) The game of bingo conducted pursuant to Section 326.5.

(B) Parimutuel racing on horseraces regulated by the California Horse Racing Board.

(C) Any lottery game conducted by the California State Lottery.

(D) Games played with cards in private homes or residences, in which no person makes money for operating the game, except as a player.

(f) It is unlawful for any person to collect any fee in connection with a controlled game authorized pursuant to Chapter 5 (commencing with Section 19800) of Division 8 of the Business and Professions Code unless the method of fee collection conforms to regulations adopted by the Division of Gambling Control of the Department of Justice or the California Gambling Control Commission. Until those regulations become operative, an owner licensee may continue to collect fees, in accordance with any of the following provisions:

(1) In the same manner as fees were collected in the establishment as of January 1, 1997, if the method of fee collection is permitted by ordinance, resolution, letter, or other written authorization of the local governmental entity having regulatory jurisdiction or law enforcement authority over the gambling establishment.

(2) In the same manner as fees were collected in the establishment as of January 1, 1997, if all of the following are true:

(A) The amount of the fee is fixed in advance of the game.

(B) There is no minimum wager in any game, round, or hand.

(C) No fee is deducted from the amount wagered.

(D) In any game or round, the same fixed fee is collected from all players at the table.

(E) The method of fee collection has not been challenged by, and is not prohibited by any ordinance or resolution of, the local governmental entity having regulatory jurisdiction or law enforcement authority over the gambling establishment.

(3) Using any method of fee collection that is otherwise authorized by law.

SEC. 60. Section 14161 of the Penal Code is amended to read:

14161. As used in this title:

(a) "Financial institution" means, when located or doing business in this state, any national bank or banking association, state bank or banking association, commercial bank or trust company organized under the laws of the United States or any state, any private bank, industrial savings bank, savings bank or thrift institution, savings and loan association, or building and loan association organized under the laws of the United States or any state, any insured institution as defined in Section 401 of the National Housing Act, any credit union organized under the laws of the United States or any state, any national banking association or corporation acting under Chapter 6 (commencing with Section 601) of Title 12 of the United States Code, any foreign bank, any currency dealer or exchange, any person or business engaged primarily in the cashing of checks, any person or business who regularly engages in the issuing, selling, or redeeming of traveler's checks, money orders, or similar instruments, any broker or dealer in securities registered or required to be registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934, any licensed sender of money, any investment banker or investment company, any insurance company, any dealer in coins, precious metals, stones, or jewelry, any pawnbroker, any telegraph company, any person or business engaged in controlled gambling within the meaning of subdivision (e) of Section 19805 of the Business and Professions Code, whether registered or licensed to do so or not, and any person or business defined as a "bank," "financial agency," or "financial institution" by Section 5312 of Title 31 of the United States Code or Section 103.11 of Title 31 of the Code of Federal Regulations and any successor provisions thereto.

(b) "Transaction" includes the deposit, withdrawal, transfer, bailment, loan, payment, or exchange of currency, or a monetary instrument, as defined by subdivision (c), by, through, or to, a financial institution, as defined by subdivision (a). "Transaction" does not include the purchase of gold, silver, or platinum bullion or coins, or diamonds, emeralds, rubies, or sapphires by a bona fide dealer therein, and does not include the sale of gold, silver, or platinum bullion or coins, or diamonds, emeralds, rubies, or sapphires by a bona fide dealer therein in exchange for other than a monetary instrument, and does not include the exchange of gold, silver, or platinum bullion or coins, or diamonds, emeralds, rubies, or sapphires by a bona fide dealer therein for gold, silver, or platinum bullion or coins, or diamonds, emeralds, rubies, or sapphires.

(c) "Monetary instrument" means United States currency and coin; the currency and coin of any foreign country; and any instrument defined as a "monetary instrument" by Section 5312 of Title 31 of the United States Code or Section 103.11 of Title 31 of the Code of Federal Regulations, or the successor of either. Notwithstanding any other provision of this subdivision, "monetary

instrument" does not include bank checks, cashier's checks, traveler's checks, personal checks, or money orders made payable to the order of a named party that have not been endorsed or that bear restrictive endorsements.

(d) "Department" means the Department of Justice.

(e) "Criminal justice agency" means the Department of Justice and any district attorney's office, sheriff's department, police department, or city attorney's office of this state.

(f) "Currency" means United States currency or coin, the currency or coin of any foreign country, and any legal tender or coin defined as currency by Section 103.11 of Title 31 of the Code of Federal Regulations or any succeeding provision.

SEC. 61. Chapter 8 (commencing with Section 4369) is added to Part 3 of Division 4 of the Welfare and Institutions Code, to read:

CHAPTER 8. STATE PROGRAM OF PROBLEM GAMBLING

4369. There is in the department the Office of Compulsive Gambling.

4369.1. As used in this chapter, the following definitions shall apply:

(a) "Compulsive gambling" means any problem or pathological gambling.

(b) "Compulsive gambling prevention programs" means programs designed to reduce the prevalence of problem and pathological gambling among California residents.

(c) "Office" means the Office of Compulsive Gambling.

(d) "Pathological gambling" means an impulse control disorder that meets the diagnostic criteria set forth in the diagnostic and statistical manual version 4 of the American Psychiatric Association.

(e) "Problem gambling" means patterns of gambling-related behavior that compromise, disrupt, or damage personal, family, educational, and vocational pursuits. The term includes pathological and compulsive gambling.

4369.2. (a) The office shall develop a comprehensive gambling prevention program for problem and pathological gamblers within the state. The comprehensive program shall consist of all of the following:

(1) Prevention and education services to the general public.

(2) A toll-free telephone service for crisis intervention and referral of compulsive gamblers to compulsive gambling counselors and self-help groups.

(3) Research into the origin, causes, treatment, and prevalence of problem gambling and pathological gambling among juveniles and adults.

(4) Treatment services for problem and pathological gamblers and their immediate families, including, but not limited to,

outpatient services, intensive outpatient services, after-care services, and inpatient services to those persons requiring specialized care.

(5) Training of certified, registered, licensed health professionals in the area of problem and underage gambling.

(b) The office shall make information available as requested by the Governor and the Legislature with respect to the comprehensive program.

4369.3. In designing and developing the program, the office shall do all of the following:

(a) Develop a statewide plan to address the problem of pathological gambling.

(b) Adopt any regulations necessary to administer the program.

(c) Develop priorities for funding services and develop criteria for distributing program funds.

(d) Monitor the expenditures of state funds by agencies and organizations receiving program funding.

(e) Evaluate the effectiveness of services provided through the program.

(f) Notwithstanding any other provision of law, any contracts required to meet the requirements of this chapter are exempt from the requirements contained in the Public Contract Code and the State Administrative Manual, and are exempt from the approval of the Department of General Services.

(g) The first and highest priority of the office with respect to the use of any funds appropriated for the purposes of this chapter shall be to carry out subdivision (a).

4369.4. All state agencies, including, but not limited to, the California Horse Racing Board, any agency that is created to regulate casino gambling or cardrooms within the state, the Department of Corrections, the California Youth Authority, the State Department of Health Services, and the State Department of Alcohol and Drug Programs, but not including the California State Lottery, shall coordinate with the office to ensure that state programs take into account, as much as practicable, problem and pathological gamblers. The office shall also coordinate and work with other entities involved in gambling and the treatment of problem and pathological gamblers.

4369.5. This chapter shall not become operative until funds are appropriated to the Department of Mental Health to carry out this chapter in legislation enacted subsequent to the act that added this chapter to the Welfare and Institutions Code, or in the annual Budget Act.

SEC. 62. (a) For the purposes of this section, “provisional license” means a license that is either granted by operation of law pursuant to this section, or is issued by the Director of the Division of Gambling Control pursuant to this section, and authorizes the holder to own and operate a gambling establishment, as defined by the Gambling Control Act (Chapter 5 (commencing with Section

19800) of Division 8 of the Business and Professions Code), as enacted by this act. The issuance of a provisional license creates no vested right to the issuance of a state gambling license. A provisional license is held subject to all terms and conditions under which a state gambling license is held pursuant to the Gambling Control Act (Chapter 5 (commencing with Section 19800) of Division 8 of the Business and Professions Code), as enacted by this act.

(b) (1) Every person possessing a valid registration, issued pursuant to former Chapter 5 (commencing with Section 19800) of Division 8 of the Business and Professions Code, as it read immediately prior to its repeal by this act, and which expires as of January 1, 1998, shall be deemed, as of January 1, 1998, to hold a provisional license to conduct those activities authorized by the registration.

(2) (A) Every owner of a gaming club who possesses a valid registration issued pursuant to former Chapter 5 (commencing with Section 19800) of Division 8 of the Business and Professions Code, as it read immediately prior to its repeal by this act, if the license has expired as of January 1, 1998, shall be deemed to hold a provisional license to own, manage, or operate all or a part of another gambling establishment, or of other gambling establishments, if all of the following conditions are satisfied with respect to the other gambling establishment or establishments:

(i) The gambling establishment, on January 1, 1998, was owned by a person holding a provisional license pursuant to this subdivision.

(ii) Acquisition of the ownership interest is completed no later than June 30, 1998.

(iii) The applicant has deposited all moneys as required pursuant to Section 19855 of the Business and Professions Code, as enacted by this act.

(iv) The applicant has deposited with the division a license fee calculated as the amount specified for the appropriate level of operation in subdivision (a) of Section 19941 of the Business and Professions Code, as enacted by this act.

(B) A provisional license granted in respect to a gambling establishment by operation of subparagraph (A) shall expire on July 30, 1998, unless, on or before that date, the holder of the provisional license files an application for a gambling license with respect to that gambling establishment under the Gambling Control Act (Chapter 5 (commencing with Section 19800) of Division 8 of the Business and Professions Code), as enacted by this act.

(3) Until a provisional licensee is summoned pursuant to subdivision (e), no other state gambling license and no key employee license shall be required in connection with the operation that is owned, managed, or operated by a person holding a provisional license. Nothing in this paragraph shall relieve any person who, on or after the effective date of this act, acquires an ownership interest in a gambling establishment, from the provisions of Section 19840 of

the Business and Professions Code, as enacted by this act. Upon payment of the fees described in this section, the provisional license shall be valid until the earlier of the following events:

(A) December 31, 1998.

(B) The granting or denial of an application for a gambling license.

(c) Until July 1, 1998, the Director of the Division of Gambling Control may issue a provisional license to any person who submitted a completed application for registration pursuant to former Chapter 5 (commencing with Section 19800) of Division 8 of the Business and Professions Code, as it read immediately prior to its repeal by this act, if all of the following are true:

(1) The director determines that the applicant is not disqualified based on any of the reasons for which an application for registration could have been denied or revoked under former Section 19809 or 19810 of the Business and Professions Code as those sections read immediately prior to repeal by this act.

(2) The applicant has paid all fees required pursuant to Section 19855 of the Business and Professions Code, as enacted by this act, less any fees paid pursuant to Section 19808 of the Business and Professions Code, as that section read immediately prior to its repeal by this act.

(3) The applicant has deposited with the division a license fee calculated as the amount specified for each level of operation in subdivision (b) of Section 19941 of the Business and Professions Code, as enacted by this act.

(d) Every person holding a provisional license pursuant to subdivision (b), who desires that the provisional license be converted to a gambling license under the Gambling Control Act enacted by this act shall, no later than January 31, 1998, deposit with the Division of Gambling Control a license fee calculated as the amount specified for the appropriate level of operation in subdivision (b) of Section 19941 of the Business and Professions Code, as enacted by this act.

(e) (1) Commencing July 1, 1998, the Division of Gambling Control shall summon persons holding provisional licenses for the purpose of applying for gambling licenses under the Gambling Control Act enacted by this act. Thereafter, except as otherwise provided herein, the license application process shall proceed as an initial application for licensure in accordance with the provisions of the Gambling Control Act, including the advance deposit of fees for investigation of the application or applications, if any.

(2) The division shall not require an applicant who holds a provisional license pursuant to subdivision (b) to furnish, in connection with an application for licensure, information or documentation that is presently in the possession of the Department of Justice by virtue of having conducted a prior investigation of the applicant pursuant to former Chapter 5 (commencing with Section

19800) of Division 8 of the Business and Professions Code, as it read immediately prior to its repeal by this act.

(f) If an application for a gambling license is granted, and upon payment of the fees specified in the Gambling Control Act, a gambling license may be issued to the owner of a gambling enterprise, to expire not later than 12 months thereafter. If this license is issued prior to December 31, 1998, the licensee shall be entitled to a credit, if any, for the fee paid pursuant to subdivision (d).

(g) Notwithstanding subdivision (a) of Section 19847, there shall be a rebuttable presumption that every natural person who, on December 31, 1997, holds a valid and unexpired registration issued pursuant to former Chapter 5 (commencing with Section 19800) of Division 8 of the Business and Professions Code, as it read immediately prior to its repeal by this act, is suitable for licensure pursuant to this act.

(h) If an application for a gambling license is denied, the applicant shall be entitled to a pro rata refund of the fee paid pursuant to subdivision (d), and any unused deposit of investigative fees.

(i) If the Division of Gambling Control does not, prior to December 31, 1998, summon a person holding a provisional license for the purpose of applying for a gambling license, the division, upon request of the holder of the provisional license, and upon payment of the fees specified in the Gambling Control Act, shall extend the provisional license until December 31, 1999. Thereafter, the process described in subdivisions (e), (f), and (g) shall apply in similar fashion.

(j) No application for a state gambling license may be submitted to the Division of Gambling Control prior to July 1, 1998. It is the intent of the Legislature that the division and the Gambling Control Board shall be fully operative by July 1, 1998.

SEC. 63. All administrative or judicial proceedings that were initiated pursuant to former Chapter 5 (commencing with Section 19800) of Division 8 of the Business and Professions Code, as it read immediately prior to its repeal by this act, and that are not concluded prior to the effective date of this act, shall continue and shall be governed by those provisions until concluded.

SEC. 64. Sections 19852 and 19852A of the Business and Professions Code, as enacted by this act, shall not apply in a situation where the initial or subsequent annual renewal licensure of any gambling establishment with respect to which, on December 31, 1997, all persons who were required to be registered pursuant to former Chapter 5 (commencing with Section 19800) of Division 8 of the Business and Professions Code, as it read immediately prior to its repeal by this act, possessed a current and valid registration. However, Sections 19852 and 19852A shall apply to any annual renewal licensure under the Gambling Control Act, if the application therefor includes an application for expansion, as defined by

subdivision (b) of Section 19852 and subdivision (b) of Section 19852A of the Business and Professions Code, as enacted by this act.

SEC. 65. All unencumbered funds remaining in the special account in the General Fund established pursuant to former Section 19818 of the Business and Professions Code, as that section read immediately prior to its repeal by this act, effective January 1, 1998, shall be transferred to the Gambling Control Fund created by Section 19940 of the Business and Professions Code, as enacted by this act.

SEC. 66. Sections 4 to 52, inclusive, of this act shall become operative on the earlier of the following events:

(1) January 1, 1999.

(2) The date of enactment of a statute appropriating funds for the funding of the Division of Gambling Control created by Section 15001 of the Government Code and the California Gambling Control Commission created by Section 19810 of the Business and Professions Code, as added by Section 4 of this act.

SEC. 66.5. Notwithstanding any other provision of law, the Division of Gambling Control and the California Gambling Control Board created by this act have every power conferred by Sections 1 to 3, inclusive, of this act until the Governor, by executive order, declares that the California Gambling Control Commission is prepared to assume the responsibilities and exercise the powers conferred by Sections 4 to 52, inclusive, of this act.

SEC. 67. The California Gambling Control Board and the Department of Justice shall jointly prepare a written report setting forth the expenditures of fees and revenue collected pursuant to this act on and after January 1, 1998. The report shall be submitted to the Senate Committee on Budget and Fiscal Review, the Assembly Committee on Budget, and the Joint Legislative Budget Committee on or before April 1, 1998.

SEC. 68. Section 58.5 of this bill incorporates amendments to Section 186.9 of the Penal Code proposed by both this bill and Assembly Bill 195. 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 186.9 of the Penal Code, and (3) this bill is enacted after Assembly Bill 195, in which case Section 58 of this bill shall not become operative.

SEC. 69. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because in that regard this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act

contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

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

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## CHAPTER 868

An act to amend Section 7000 of, and to add Sections 7005 and 7005.5 to, the Penal Code, relating to prisons.

[Approved by Governor October 11, 1997. Filed with Secretary of State October 12, 1997.]

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

SECTION 1. Section 7000 of the Penal Code is amended to read:

7000. (a) The Department of Corrections shall prepare plans for, and construct facilities and renovations included within, its master plan for prison construction and operations, which funds have been appropriated by the Legislature.

(b) The Department of Corrections shall include as part of the master plan developed pursuant to this section mitigation for costs incurred by any local education agency, city, county, or city and county as a result of the construction, operation, and maintenance of new prison facilities resulting in increased inmate housing capacity, expansions of existing prison facilities, increases in the number of inmates housed in existing prison facilities, or any combination thereof. Only a city, county, or city and county with a sphere of influence within which any Department of Corrections increased housing capacity occurs shall be eligible for mitigation pursuant to this section.

(c) "Master plan" means the department's "Facility Requirements Plan," dated April 7, 1980, and any subsequent revisions.

SEC. 2. Section 7005 is added to the Penal Code, to read:

7005. Notwithstanding any other provision of law, costs incurred by any local education agency, or any city, county, or city and county as a result of the construction of new prison facilities, expansion of existing prison facilities, increases in the number of inmates housed in existing prison facilities resulting in increased inmate housing capacity, or any combination thereof, shall be mitigated by the

Department of Corrections if funds for that purpose are appropriated to the department in the annual Budget Act.

SEC. 3. Section 7005.5 is added to the Penal Code, to read:

7005.5. (a) Any funds appropriated for mitigation costs pursuant to Section 7000 shall be divided as follows: one-half for allocation among any impacted local education agency, and one-half for allocation among any impacted city, county, or city and county.

(b) Any funds appropriated for mitigation of costs of a city, county, or city and county as a result of the construction of new prison facilities, expansion of existing facilities, or increases in inmates in existing facilities, or a combination thereof, shall be divided among any city, county, or city and county impacted by the prison construction or expansion.

(c) Funds to be allocated among any impacted city, county, or city and county shall be paid directly to each impacted entity by the Department of Corrections upon receipt of resolutions adopted by the governing body of each impacted city, county, or city and county indicating agreement by an entity regarding the specific allocations to that entity. Only a local impacted entity whose current approved sphere of influence includes the site of increased inmate housing capacity shall be deemed to be a jurisdiction eligible for mitigation pursuant to Section 7000.

(d) Funds to be allocated among any impacted local education agency shall be disbursed to the county superintendent of schools for allocation among any impacted local education agency.

SEC. 4. Funds appropriated in the Budget Act of 1997 for mitigation payments for the Emergency Bed Project and prison expansion shall be allocated in the following manner:

(a) The total appropriation shall be divided by the total number of emergency beds deemed temporary beds by the Department of Corrections, as determined by the department as of June 30, 1997.

(b) The amount determined in subdivision (a) shall be multiplied by the number of beds deemed temporary beds by the Department of Corrections in the Emergency Bed Project in each prison, as determined by the department as of June 30, 1997.

(c) One-half of the amount determined in subdivision (b) shall be allocated to the county superintendent of schools who has jurisdiction for the distribution of funds to impacted local education agencies.

(d) One-half of the amount determined in subdivision (b) shall be allocated to any impacted city, county, or city and county pursuant to Section 7005.5 of the Penal Code.

# CHAPTER 869

An act to amend Sections 15402 and 15421 of, and to add Chapter 2.1 (commencing with Section 68650) to Title 8 of, the Government Code, relating to appellate representation.

[Approved by Governor October 11, 1997. Filed with Secretary of State October 12, 1997.]

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

SECTION 1. Section 15402 of the Government Code is amended to read:

15402. The State Public Defender may employ deputies and other employees, and establish and operate offices, as he or she may need for the proper performance of his or her duties. The State Public Defender may contract with county public defenders, private attorneys, and nonprofit corporations organized to furnish legal services to persons who are not financially able to employ counsel and pay a reasonable sum for those services pursuant to the contracts. He or she may provide for participation by those attorneys and organizations in his or her representation of eligible persons. The attorneys and organizations shall serve under the supervision and control of the State Public Defender and shall be compensated for their services either under those contracts or in the manner provided in Section 1241 of the Penal Code.

The State Public Defender may also enter into reciprocal or mutual assistance agreements with the board of supervisors of one or more counties to provide for exchange of personnel for the purposes set forth in Section 27707.1.

The office of the State Public Defender may hire 15 additional staff attorneys and the support staff necessary for proper implementation of Section 15421.

SEC. 2. Section 15421 of the Government Code is amended to read:

15421. Upon appointment by the court or upon the request of the person involved the State Public Defender is authorized to represent any person who is not financially able to employ counsel in the following matters:

(a) An automatic appeal to the Supreme Court under Section 11 of Article VI of the California Constitution and subdivision (b) of Section 1239 of the Penal Code.

(b) A petition for a writ of certiorari to the United States Supreme Court with respect to a judgment on the automatic appeal to the Supreme Court under Section 11 of Article VI of the California Constitution and subdivision (b) of Section 1239 of the Penal Code.

(c) An appeal in a noncapital, criminal case as long as the State Public Defender is fulfilling the responsibilities to provide

representation imposed pursuant to subdivisions (a) and (b), or the State Public Defender determines that taking a limited number of those cases is necessary for staff training.

SEC. 3. Chapter 2.1 (commencing with Section 68650) is added to Title 8 of the Government Code, to read:

## Chapter 2.1. California Habeas Resource Center

68650. As used in this chapter, "center" means the California Habeas Resource Center, and "board" means the board of directors of the center.

68651. There is hereby created in the judicial branch of state government the California Habeas Resource Center, which shall have all of the following general powers and duties:

(a) To employ up to 30 attorneys who may be appointed by the Supreme Court to represent any person convicted and sentenced to death in this state, who is without counsel and who is determined by a court of competent jurisdiction to be indigent, for the purpose of instituting and prosecuting postconviction actions in the state and federal courts, challenging the legality of the judgment or sentence imposed against that person, and preparing petitions for executive clemency. Any such appointment may be concurrent with the appointment of the State Public Defender or other counsel for purposes of direct appeal under Section 11 of Article VI of the California Constitution.

(b) To file motions seeking compensation for representation and reimbursement for expenses pursuant to Section 3006A of Title 18 of the United States Code when providing representation to indigent persons in the federal courts, and transmit those payments to the treasurer for deposit in a special account in the General Fund which, upon appropriation, shall be available for the purposes of the center.

(c) To work with the Supreme Court in recruiting members of the private bar to accept death penalty habeas case appointments.

(d) To establish and periodically update a roster of attorneys qualified as counsel in postconviction proceedings in capital cases.

(e) To establish and periodically update a roster of experienced investigators and experts who are qualified to assist counsel in postconviction proceedings in capital cases.

(f) To employ investigators and experts as staff to provide services to appointed counsel upon request of counsel, provided that where the provision of those services is to private counsel under appointment by the Supreme Court, those services shall be pursuant to contract between appointed counsel and the center.

(g) To provide legal or other advice or, to the extent not otherwise available, any other assistance to appointed counsel in postconviction proceedings as is appropriate where not prohibited by law.

(h) To develop a brief bank of pleadings and related materials on significant, recurring issues which arise in postconviction

proceedings in capital cases and to make those briefs available to appointed counsel.

(i) To evaluate cases and recommend assignment by the court of appropriate attorneys.

(j) To provide assistance and case progress monitoring as needed.

(k) To timely review case billings and recommend compensation of members of the private bar to the court.

(*l*) The center shall annually report to the Legislature, the Governor, and the Supreme Court on the status of the appointment of counsel for indigent prisoners in postconviction capital cases, and on the operations of the office. On or before January 1, 2000, the office of the Legislative Analyst shall evaluate the available reports.

68652. The Supreme Court shall offer to appoint counsel to represent all state prisoners subject to a capital sentence for purposes of state postconviction proceedings, and shall enter an order containing one of the following:

(a) The appointment of one or more counsel to represent the prisoner in postconviction state proceedings upon a finding that the person is indigent and has accepted the offer to appoint counsel or is unable to competently decide whether to accept or reject that offer.

(b) A finding, after a hearing if necessary, that the prisoner rejected the offer to appoint counsel and made that decision with full understanding of the legal consequences of the decision.

(c) The denial to appoint counsel upon a finding that the person is not indigent.

68653. No counsel appointed to represent a state prisoner under capital sentence in state postconviction proceedings shall have previously represented the prisoner at trial or on direct appeal in the case for which the appointment is made, unless the prisoner and counsel expressly requests continued representation.

68654. (a) The center shall be managed by an executive director who shall be responsible for the day-to-day operations of the center.

(b) The executive director shall be chosen by a five-member board of directors and confirmed by the Senate. Each Appellate Project shall appoint one board member, all of whom shall be attorneys. However, no attorney who is employed as a judge, prosecutor, or in a law enforcement capacity shall be eligible to serve on the board. The executive director shall serve at the will of the board.

(c) Each member of the board shall be appointed to serve a four-year term, and vacancies shall be filled in the same manner as the original appointment. Members of the board shall receive no compensation, but shall be reimbursed for all reasonable and necessary expenses incidental to their duties. The first members of the board shall be appointed no later than February 1, 1998.

(d) The executive director shall meet the appointment qualifications of the State Public Defender as specified in Section 15400.

(e) The executive director shall receive the salary that shall be specified for the executive director in Chapter 6 (commencing with Section 11550) of Part 1 of Division 3 of Title 2.

68655. The Judicial Council and the Supreme Court shall adopt, by rule of court, binding and mandatory competency standards for the appointment of counsel in death penalty direct appeals and habeas corpus proceedings.

68656. (a) The Supreme Court may compensate counsel representing indigent defendants in automatic appeals arising out of a judgment of death or for state postconviction proceedings in those cases, at a rate of at least one hundred twenty-five dollars ($125) per allowable hour, as defined by the court's Payment Guidelines for Appointed Counsel Representing Indigent Criminal Appellants. However, nothing in this section is intended to prohibit the hiring of counsel under a flat-fee arrangement.

(b) The Supreme Court may raise the guideline limitation on investigative and other expenses allowable for counsel to adequately investigate and present collateral claims to up to twenty-five thousand dollars ($25,000) without an order to show cause.

(c) It is the intent of the Legislature that payments to appointed counsel be made within 60 days of submission of a billing.

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## CHAPTER 870

An act to amend Sections 25143, 25160.5, 25165, 25166, 25166.5, 25174, 25174.1, 25178.1, 25187, 25192, 25201.6, 25201.9, 25204.7, 25205.4, 25205.5, 25205.6, 25205.7, 25205.12, 25205.14, 25205.15, 25205.16, 25205.18, 25205.19, 25207.12, 25209.7, 25221, 25324, 25330, 25330.4, 25336, 25337, 25343, 25351.1, 25354.5, 25360, 25395, 25404.5, and 25416 of, to add Sections 25173.6 and 25173.7 to, to add Article 9.2 (commencing with Section 25206.1) to Chapter 6.5 of Division 20 of, to repeal Sections 25167, 25187.9, 25205.8, 25205.9, 25340, 25341, 25345, and 25351 of, to repeal and add Section 25174.2 of, and to repeal, add and repeal, and add Section 25174.6 of, the Health and Safety Code, and to amend Sections 43053, 43054, and 43101 of, to add Section 43152.16 to, and to repeal Section 43055 of, the Revenue and Taxation Code, relating to hazardous waste and substances, and making an appropriation therefor.

[Approved by Governor October 11, 1997. Filed with Secretary of State October 12, 1997.]

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

SECTION 1. This act shall be known, and may be cited, as the Environmental Cleanup and Fee Reform Act of 1997.

SEC. 2. Section 25143 of the Health and Safety Code is amended to read:

25143. (a) The department may grant a variance from one or more of the requirements of this chapter, or the regulations adopted pursuant to this chapter, for the management of a hazardous waste if all of the following conditions apply:

(1) One of the following conditions applies:

(A) The hazardous waste is solely a non-RCRA hazardous waste or the hazardous waste or its management is exempt from, or is not otherwise regulated pursuant to, the federal act.

(B) The requirement from which a variance is being granted is not a requirement of the federal act, or the regulations adopted to implement the federal act.

(C) The department has issued, or is simultaneously issuing, a variance from the federal act for the hazardous waste management pursuant to subdivision (c).

(2) The department makes one of the following findings:

(A) The hazardous waste, the amount of the hazardous waste, or the hazardous waste management activity or management unit is insignificant or unimportant as a potential hazard to human health and safety or to the environment, when managed in accordance with the conditions, limitations, and other requirements specified in the variance.

(B) The requirements, from which a variance is being granted, are insignificant or unimportant in preventing or minimizing a potential hazard to human health and safety or the environment.

(C) The handling, processing, or disposal of the hazardous waste, or the hazardous waste management activity, is regulated by another governmental agency in a manner that ensures it will not pose a substantial present or potential hazard to human health and safety, and the environment.

(D) A requirement imposed by another public agency provides protection of human health and safety or the environment equivalent to the protection provided by the requirement from which the variance is being granted.

(3) The variance is granted in accordance with this section.

(b) (1) The department may grant a variance upon receipt of a variance application for a site or sites owned or operated by an individual or business concern. The individual or business concern submitting the application for a variance shall submit to the department sufficient information to enable the department to determine if all of the conditions required by subdivision (a) are satisfied for all situations within the scope of the requested variance.

(2) The department may also grant a variance, on its own initiative, to one or more individuals or business concerns. If the variance is granted to more than one individual or business concern, the department, in granting the variance pursuant to this paragraph, shall comply with all of the following requirements:

(A) The department shall make all of the following findings, in addition to the findings required pursuant to paragraph (2) of subdivision (a):

(i) That the variance is necessary to address a temporary situation, or that the variance is needed to address an ongoing situation pending the adoption of regulations by the department.

(ii) That the variance will not create a substantive competitive disadvantage for a member or members of a specific class of facilities. This finding shall be based upon information available to the department at the time that the variance is granted.

(iii) That there are no reasonably foreseeable site-specific physical or operating conditions that could potentially impact the finding made by the department pursuant to paragraph (2) of subdivision (a). This finding shall be supported by substantial evidence in the record as a whole, and shall be based upon both of the following:

(I) The types of hazardous waste streams, the estimated amounts of hazardous waste, and the locations that are affected by the variance. The estimate of the amounts of hazardous waste that are affected by the variance shall be based upon information reasonably available to the department.

(II) Due inquiry, with respect to the hazardous waste streams and management activities affected by the variance, regarding the potential for mismanagement, enforcement and site remediation experience, and proximity to sensitive receptors.

(B) The variance shall not be granted for a period of more than one year. A variance granted pursuant to this paragraph may be renewed for one additional one-year period, if the department makes a finding that the variance has not resulted in harm to human health or safety or to the environment and that there has been substantial compliance with the conditions contained in the variance.

(C) The department shall issue a public notice at least 30 days prior to granting the variance to allow an opportunity for public comment. The public notice shall be issued in the California Regulatory Register, to the department's regulatory mailing list, and to all potentially affected hazardous waste facilities and generators known to the department. The department shall, upon request, hold a public meeting prior to granting the variance. In granting the variance and in making the findings required by paragraph (2) of subdivision (a) and subparagraph (A), the department shall consider all public comments received.

(D) The department shall not grant a variance pursuant to this paragraph from the definition of, or classification as, a hazardous

waste, or from requirements pertaining to the investigation or remediation of releases of hazardous waste or constituents.

(E) The authority of the department to grant or renew variances pursuant to this paragraph shall remain in effect only until January 1, 2002, unless a later enacted statute, which is enacted before January 1, 2002, deletes or extends that date. This subparagraph shall not be construed to invalidate any variance granted pursuant to this paragraph prior to the expiration of the department's authority.

(c) (1) In addition to the variance authorized pursuant to subdivisions (a) and (b), the department, after making one of the findings specified in paragraph (2) of subdivision (a), may also grant a variance from the requirements of the federal act in accordance with the provisions of Sections 260.30, 260.31, 260.32, and 260.33 of Title 40 of the Code of Federal Regulations, or any successor federal regulations, regarding the issuance of variances from classification of a material as a solid waste or variances classifying enclosed devices using controlled flame combustion as boilers.

(2) This subdivision shall take effect on the date that the department obtains authorization from the Environmental Protection Agency to implement those provisions of the federal act that are identified in paragraph (1).

(d) Each variance issued pursuant to this section shall be issued on a form prescribed by the department and shall, as applicable, include, but not be limited to, all of the following:

(1) Information identifying the individuals or business concerns to which the variance applies. This identification shall be by name, location of the site or sites, type of hazardous waste generated or managed, or type of hazardous waste management activity, as applicable.

(2) As applicable, a description of the physical characteristics and chemical composition of the hazardous waste or the specifications of the hazardous waste management activity or unit to which the variance applies.

(3) The time period during which the variance is effective.

(4) A specification of the requirements of this chapter or the regulations adopted pursuant to this chapter from which the variance is granted.

(5) A specification of the conditions, limitations, or other requirements to which the variance is subject.

(e) (1) Variances issued pursuant to this section are subject to review at the discretion of the department and may be revoked or modified at any time.

(2) The department shall revoke or modify a variance if the department finds any of the following:

(A) The conditions required by this section are no longer satisfied.

(B) The holder of the variance is in violation of one or more of the conditions, limitations, or other requirements of the variance, and, as

a result of the violation, the conditions required by this section are no longer satisfied.

(C) If the variance was granted because of the finding specified in subparagraph (C) or (D) of paragraph (2) of subdivision (a), the holder of the variance is in violation of one or more of the regulatory requirements of another governmental agency to which the holder is subject and the violation invalidates that finding.

(f) Within 30 days from the date of granting a variance, the department shall issue a public notice on the California Regulatory Register.

SEC. 2.5. Section 25143 of the Health and Safety Code is amended to read:

25143. (a) The department may grant a variance from one or more of the requirements of this chapter, or the regulations adopted pursuant to this chapter, for the management of a hazardous waste if all of the following conditions apply:

(1) One of the following conditions applies:

(A) The hazardous waste is solely a non-RCRA hazardous waste or the hazardous waste or its management is exempt from, or is not otherwise regulated pursuant to, the federal act.

(B) The requirement from which a variance is being granted is not a requirement of the federal act, or the regulations adopted to implement the federal act.

(C) The department has issued, or is simultaneously issuing, a variance from the federal act for the hazardous waste management pursuant to subdivision (c).

(2) The department makes one of the following findings:

(A) The hazardous waste, the amount of the hazardous waste, or the hazardous waste management activity or management unit is insignificant or unimportant as a potential hazard to human health and safety or to the environment, when managed in accordance with the conditions, limitations, and other requirements specified in the variance.

(B) The requirements, from which a variance is being granted, are insignificant or unimportant in preventing or minimizing a potential hazard to human health and safety or the environment.

(C) The handling, processing, or disposal of the hazardous waste, or the hazardous waste management activity, is regulated by another governmental agency in a manner that ensures it will not pose a substantial present or potential hazard to human health and safety, and the environment.

(D) A requirement imposed by another public agency provides protection of human health and safety or the environment equivalent to the protection provided by the requirement from which the variance is being granted.

(3) The variance is granted in accordance with this section.

(b) (1) The department may grant a variance upon receipt of a variance application for a site or sites owned or operated by an

individual or business concern. The individual or business concern submitting the application for a variance shall submit to the department sufficient information to enable the department to determine if all of the conditions required by subdivision (a) are satisfied for all situations within the scope of the requested variance.

(2) On or before January 1, 2002, the department may also grant a variance, on its own initiative, to one or more individuals or business concerns. If the variance is granted to more than one individual or business concern, the department, in granting the variance pursuant to this paragraph, shall comply with all of the following requirements:

(A) The department shall make all of the following findings, in addition to the findings required pursuant to paragraph (2) of subdivision (a):

(i) The variance is necessary to address a temporary situation, or that the variance is needed to address an ongoing situation pending the adoption of regulations by the department.

(ii) The variance will not create a substantive competitive disadvantage for a member or members of a specific class of facilities. This finding shall be based upon information available to the department at the time that the variance is granted.

(iii) There are no reasonably foreseeable site-specific physical or operating conditions that could potentially impact the finding made by the department pursuant to paragraph (2) of subdivision (a). This finding shall be supported by substantial evidence in the record as a whole, and shall be based upon both of the following:

(I) The types of hazardous waste streams, the estimated amounts of hazardous waste, and the locations that are affected by the variance. The estimate of the amounts of hazardous waste that are affected by the variance shall be based upon information reasonably available to the department.

(II) Due inquiry, with respect to the hazardous waste streams and management activities affected by the variance, regarding the potential for mismanagement, enforcement and site remediation experience, and proximity to sensitive receptors.

(B) The variance shall not be granted for a period of more than one year. A variance granted pursuant to this paragraph may be renewed for one additional one-year period, if the department makes a finding that the variance has not resulted in harm to human health or safety or to the environment and that there has been substantial compliance with the conditions contained in the variance.

(C) The department shall issue a public notice at least 30 days prior to granting the variance to allow an opportunity for public comment. The public notice shall be issued in the California Regulatory Register, to the department's regulatory mailing list, and to all potentially affected hazardous waste facilities and generators known to the department. The department shall, upon request, hold a public meeting prior to granting the variance. In granting the variance and in making the findings required by paragraph (2) of

subdivision (a) and subparagraph (A), the department shall consider all public comments received.

(D) The department shall not grant a variance pursuant to this paragraph from the definition of, or classification as, a hazardous waste, or from requirements pertaining to the investigation or remediation of releases of hazardous waste or constituents.

(E) The department may grant or renew variances pursuant to this paragraph only until January 1, 2002, unless a later enacted statute, which is enacted before January 1, 2002, deletes or extends that date. This subparagraph shall not be construed to invalidate any variance granted pursuant to this paragraph prior to the expiration of the department's authority.

(c) (1) In addition to the variance authorized pursuant to subdivisions (a) and (b), the department, after making one of the findings specified in paragraph (2) of subdivision (a), may also grant a variance from the requirements of the federal act in accordance with the provisions of Sections 260.30, 260.31, 260.32, and 260.33 of Title 40 of the Code of Federal Regulations, or any successor federal regulations, regarding the issuance of variances from classification of a material as a solid waste or variances classifying enclosed devices using controlled flame combustion as boilers.

(2) This subdivision shall become operative on the date that the department obtains authorization from the Environmental Protection Agency to implement those provisions of the federal act that are identified in paragraph (1).

(d) Each variance issued pursuant to this section shall be issued on a form prescribed by the department and shall, as applicable, include, but not be limited to, all of the following:

(1) Information identifying the individuals or business concerns to which the variance applies. This identification shall be by name, location of the site or sites, type of hazardous waste generated or managed, or type of hazardous waste management activity, as applicable.

(2) As applicable, a description of the physical characteristics and chemical composition of the hazardous waste or the specifications of the hazardous waste management activity or unit to which the variance applies.

(3) The time period during which the variance is effective.

(4) A specification of the requirements of this chapter or the regulations adopted pursuant to this chapter from which the variance is granted.

(5) A specification of the conditions, limitations, or other requirements to which the variance is subject.

(e) (1) Variances issued pursuant to this section are subject to review at the discretion of the department and may be revoked or modified at any time.

(2) The department shall revoke or modify a variance if the department finds any of the following:

(A) The conditions required by this section are no longer satisfied.

(B) The holder of the variance is in violation of one or more of the conditions, limitations, or other requirements of the variance, and, as a result of the violation, the conditions required by this section are no longer satisfied.

(C) If the variance was granted because of the finding specified in subparagraph (C) or (D) of paragraph (2) of subdivision (a), the holder of the variance is in violation of one or more of the regulatory requirements of another governmental agency to which the holder is subject and the violation invalidates that finding.

(f) (1) Not less than 30 days immediately preceding the date of granting a variance, the department shall issue a public notice of the proposed granting of the variance in the California Regulatory Notice Register.

(2) Paragraph (1) does not apply to any variance listed in subdivision (g).

(g) Notwithstanding subdivision (f), within 30 days from the date of granting any of the following variances, the department shall issue a public notice of the grant of the variance in the California Regulatory Notice Register:

(1) Variances immediately required in cases of emergency to protect human health or the environment.

(2) Regulatory variances granted for certain transportation operations in accordance with Article 4 (commencing with Section 66263.40) of Chapter 13 of Division 4.5 of Title 22, of the California Code of Regulations, in existence on July 1, 1997, which do not require a discretionary decision to be made by the department.

(3) Variances granted in conjunction with, or to facilitate, household or agricultural hazardous waste collection activities operated by a public agency or by a contractor operating on behalf of the public agency, if the public agency or contractor has not violated this chapter in the three years prior to applying for the variance.

SEC. 3. Section 25160.5 of the Health and Safety Code is amended to read:

25160.5. If any person submits an incomplete or improperly completed manifest, and the department returns the manifest to the person who completed or submitted the manifest, the person to whom it was returned shall, within 30 days from the date of receipt of the returned manifest, submit a fee of twenty dollars ($20) to the department to accompany the resubmitted manifest. The department shall deposit the fees collected pursuant to this section into the Hazardous Waste Control Account, for expenditure by the department, upon appropriation by the Legislature.

SEC. 4. Section 25165 of the Health and Safety Code is amended to read:

25165. (a) A hazardous waste transporter's application for original and renewal registration shall be on a form provided by the department.

(b) Any application for registration under this section shall be filed with the department.

SEC. 5. Section 25166 of the Health and Safety Code is amended to read:

25166. (a) A person who is registered as a hazardous waste transporter may voluntarily surrender a registration by submitting a letter signed and dated by the registered hazardous waste transporter indicating that the transporter no longer wishes to transport hazardous waste.

(b) A person whose registration has expired for a period of more than 90 days shall be considered an applicant for an original registration when the person applies for registration.

SEC. 6. Section 25166.5 of the Health and Safety Code is amended to read:

25166.5. Notwithstanding any other provision of law, the department may, by regulation, provide for the issuance and renewal of a hazardous waste transporter registration on a two-year basis.

SEC. 7. Section 25167 of the Health and Safety Code is repealed.

SEC. 8. Section 25173.6 is added to the Health and Safety Code, to read:

25173.6. (a) There is in the General Fund the Toxic Substances Control Account, which shall be administered by the director. In addition to any other money that may be appropriated by the Legislature to the Toxic Substances Control Account, all of the following shall be deposited in the account:

(1) The fees collected pursuant to Section 25205.6.

(2) The fees collected pursuant to Section 25187.2, to the extent that those fees are for oversight of a removal or remedial action taken under Chapter 6.8 (commencing with Section 25300) or Chapter 6.85 (commencing with Section 25396).

(3) Any fines or penalties collected pursuant to this chapter, Chapter 6.8 (commencing with Section 25300) or Chapter 6.85 (commencing with Section 25396), except as directed otherwise by Section 25192.

(4) Any interest earned upon money deposited in the Toxic Substances Control Account.

(5) All money recovered pursuant to Section 25360, except recoveries of amounts paid from the Hazardous Substance Cleanup Fund.

(6) All money recovered pursuant to Section 25380.

(7) Any reimbursements for funds expended from the Toxic Substances Control Account for services provided by the department, including, but not limited to, reimbursements required pursuant to Sections 25201.9 and 25343.

(8) Any money received from the federal government pursuant to the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sec. 9601, et seq.).

(9) Any money received from responsible parties for remedial action or removal at a specific site, except as otherwise provided by law.

(b) The funds deposited in the Toxic Substances Control Account may be appropriated to the department for the following purposes:

(1) The administration and implementation of the following:

(A) Chapter 6.8 (commencing with Section 25300), except that no funds may be expended from the Toxic Substances Control Account for purposes of Section 25354.5.

(B) Chapter 6.85 (commencing with Section 25396).

(C) Chapter 6.11 (commencing with Section 25404).

(D) Article 10 (commencing with Section 7710) of Chapter 1 of Division 4 of the Public Utilities Code, to the extent the department has been delegated responsibilities by the secretary for implementing that article.

(2) The administration of the following units within the department:

(A) The Human and Ecological Risk Division.

(B) The Hazardous Materials Laboratory.

(C) The Office of Pollution Prevention and Technology Development.

(3) For allocation to the Office of Environmental Health Hazard Assessment, pursuant to an interagency agreement, to assist the department as needed in administering the programs described in subparagraphs (A) and (B) of paragraph (1).

(4) For allocation to the State Board of Equalization to pay refunds of fees collected pursuant to Section 43054 of the Revenue and Taxation Code.

(5) For the state share mandated pursuant to paragraph (3) of subsection (c) of Section 104 of the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sec. 9404(c)(3)).

(6) For the purchase by the state, or by any local agency with the prior approval of the director, of hazardous substance response equipment and other preparations for response to a release of hazardous substances. However, all equipment shall be purchased in a cost-effective manner after consideration of the adequacy of existing equipment owned by the state or the local agency, and the availability of equipment owned by private contractors.

(7) For payment of all costs of removal and remedial action incurred by the state, or by any local agency with the approval of the director, in response to a release or threatened release of a hazardous substance, to the extent the costs are not reimbursed by the federal

Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sec. 9601, et seq.).

(8) For payment of all costs of actions taken pursuant to subdivision (b) of Section 25358.3, to the extent that these costs are not paid by the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sec. 9601, et seq.).

(9) For all costs incurred by the department in cooperation with the Agency for Toxic Substances and Disease Registry established pursuant to subsection (i) of Section 104 of the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sec. 9604(i)) and all costs of health effects studies undertaken regarding specific sites or specific substances at specific sites. Funds appropriated for this purpose shall not exceed five hundred thousand dollars ($500,000) in any single fiscal year. However, these actions shall not duplicate reasonably available federal actions and studies.

(10) For repayment of the principal of, and interest on, bonds sold pursuant to Article 7.5 (commencing with Section 25385).

(11) For the reasonable and necessary administrative costs and expenses of the Hazardous Substance Cleanup Arbitration Panel created pursuant to Section 25356.2.

(12) Direct site remediation costs.

(13) For the department's expenses for staff to perform oversight of investigations, characterizations, removals, remediations, or long-term operation and maintenance.

(14) For the administration and collection of the fees imposed pursuant to Section 25205.6.

(c) The funds deposited in the Toxic Substances Control Account may be appropriated by the Legislature to the office of the Attorney General for the support of the Toxic Substance Enforcement Program in the office of the Attorney General, in carrying out the purposes of Chapter 6.8 (commencing with Section 25300) and Chapter 6.85 (commencing with Section 25396). Expenditures for the purposes of this subdivision are not subject to an interagency or interdepartmental agreement.

(d) The director shall expend federal funds in the Toxic Substances Control Account consistent with the requirements specified in Section 114 of the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sec. 9601), upon appropriation by the Legislature, for the purposes for which they were provided to the state.

(e) Money in the Toxic Substances Control Account shall not be expended to conduct removal or remedial actions if any significant portion of the hazardous substances to be removed or remedied originated from a source outside the state.

(f) The Director of Finance, upon request of the director, may make a loan from the General Fund to the Toxic Substances Control Account to meet cash needs. The loan shall be subject to the repayment provisions of Section 16351 of the Government Code and the interest provisions of Section 16314 of the Government Code.

SEC. 8.5. Section 25173.7 is added to the Health and Safety Code, to read:

25173.7. (a) It is the intent of the Legislature that funds deposited in the Toxic Substances Control Account shall be appropriated in the annual Budget Act each year in the following manner:

(1) Not less than six million seven hundred fifty thousand dollars ($6,750,000) to the Site Remediation Account in the General Fund for direct site remediation costs, as defined in Section 25337. The amount specified in this paragraph shall be increased in any fiscal year by the amount of increased revenues specified by the Legislature in the Budget Act for that fiscal year pursuant to subdivision (f) of Section 25205.6.

(2) Not less than four hundred thousand dollars ($400,000) to the Expedited Site Remediation Trust Fund in the State Treasury, created pursuant to subdivision (a) of Section 25399.1, for purposes of paying the orphan share of response costs pursuant to Chapter 6.85 (commencing with Section 25396).

(3) Eight million dollars ($8,000,000) for purposes of the administration of the units of the department specified in paragraph (2) of subdivision (b) of Section 25173.6.

(4) Not more than one million two hundred thousand dollars ($1,200,000) for purposes of implementing the unified hazardous waste and hazardous materials regulatory program established pursuant to Chapter 6.11 (commencing with Section 25404).

(5) Not more than five hundred thousand dollars ($500,000) for purposes of the administration and collection of the fees specified in paragraph (14) of subdivision (b) of Section 25173.6.

(6) Funds not appropriated as specified in paragraphs (1) to (5), inclusive, may be appropriated for any of the purposes specified in subdivision (b) of Section 25173.6, except the purposes specified in subparagraph (C) of paragraph (1) of, and paragraph (14) of, subdivision (b) of Section 25173.6.

(b) The amounts specified in paragraphs (1) to (5), inclusive, of subdivision (a) are the amounts that the Legislature intends to appropriate for the 1998–99 fiscal year. Beginning with the 1999–2000 fiscal year, and for each fiscal year thereafter, the amounts shall be adjusted annually to reflect increases or decreases in the cost of living during the prior fiscal year, as measured by the Consumer Price Index issued by the Department of Industrial Relations or by a successor agency.

SEC. 9. Section 25174 of the Health and Safety Code is amended to read:

25174. (a) There is in the General Fund the Hazardous Waste Control Account, which shall be administered by the director. In addition to any other money that may be deposited in the Hazardous Waste Control Account, pursuant to statute, all of the following amounts shall be deposited in the account:

(1) The fees collected pursuant to Sections 25174.1, 25205.2, 25205.5, 25205.15, and 25205.16.

(2) The fees collected pursuant to Section 25187.2, to the extent that those fees are for the oversight of corrective action taken under this chapter.

(3) Any interest earned upon the money deposited in the Hazardous Waste Control Account.

(4) Any money received from the federal government pursuant to the federal act.

(5) Any reimbursements for funds expended from the Hazardous Waste Control Account for services provided by the department pursuant to this chapter, including, but not limited to, the reimbursements required pursuant to Sections 25201.9 and 25205.7.

(b) The funds deposited in the Hazardous Waste Control Account may be appropriated by the Legislature, for expenditure as follows:

(1) To the department for the administration and implementation of this chapter.

(2) To the department for allocation to the State Board of Equalization to pay refunds of fees collected pursuant to Sections 43051 and 43053 of the Revenue and Taxation Code.

(3) To the department for the costs of performance or review of analyses of past, present, or potential environmental public health effects related to toxic substances, including extremely hazardous waste, as defined in Section 25115, and hazardous waste, as defined in Section 25117.

(4) (A) To the office of the Attorney General for the support of the Toxic Substance Enforcement Program in the office of the Attorney General, in carrying out the purposes of this chapter.

(B) Notwithstanding subdivision (c), expenditures for the purposes of this paragraph shall not be subject to an interagency or interdepartmental agreement.

(C) On or before October 1 of each year, the Attorney General shall report to the Legislature on the expenditure of any funds appropriated to the office of the Attorney General for the preceding fiscal year pursuant to this paragraph and subdivision (c) of Section 25173.6. The report shall include all of the following:

(i) A description of cases resolved by the office of the Attorney General through settlement or court order, including the monetary benefit to the department and the state.

(ii) A description of injunctions or other court orders benefiting the people of the state.

(iii) A description of any cases in which the Attorney Generals Toxic Substance Enforcement Program is representing the

department or the state against claims by defendants or responsible parties.

(iv) A description of other pending litigation handled by the Attorney General's Toxic Substance Enforcement Program.

(D) Nothing in subparagraph (C) shall require the Attorney General to report on any confidential or investigatory matter.

(c) Except for the appropriation to the office of the Attorney General pursuant to paragraph (4) of subdivision (b), expenditures from the Hazardous Waste Control Account for support of state agencies other than the department shall, upon appropriation by the Legislature to the department, be subject to an interagency or interdepartmental agreement between the department and the state agency receiving the support.

(d) The department shall, at the time of the release of the annual Governor's Budget, describe the budgetary amounts proposed to be allocated to the State Board of Equalization, as specified in paragraph (2) of subdivision (b) and in paragraph (3) of subdivision (b) of Section 25173.6, for the upcoming fiscal year. With respect to expenditures for the purposes of paragraphs (1) and (3) of subdivision (b) and paragraphs (1) and (2) of subdivision (b) of Section 25173.6, the department shall also make available the budgetary amounts and allocations of staff resources of the department proposed for the following activities:

(1) The department shall identify, with regard to the permitting of hazardous waste facilities, closure plans, and postclosure permits, the projected allocations of budgets and permitting staff resources for all of the following facilities:

(A) Hazardous waste facilities managing RCRA hazardous waste.

(B) Hazardous waste facilities managing non-RCRA hazardous waste.

(C) Facilities under each tier of the hazardous waste permitting system established pursuant to Article 9 (commencing with Section 25200).

(2) The department shall identify, with regard to surveillance and enforcement activities, the projected allocations of budgets and staff resources for the management of RCRA and non-RCRA hazardous waste for all of the following types of regulated facilities and activities:

(A) Hazardous waste facilities by permit tier.

(B) Interim status facilities and operations.

(C) Generators.

(D) Transporters.

(E) Response to complaints.

(3) The department shall identify, with regard to the transportation of hazardous waste, the projected allocations of budgets and staff resources for both of the following activities:

(A) The regulation of hazardous waste transporters.

(B) The operation and maintenance of the hazardous waste manifest system.

(4) The department shall identify, with regard to site mitigation, corrective action, and remedial and removal actions, the projected allocations of budgets and staff resources for the oversight and implementation of the following activities:

(A) Removal and remedial actions at military bases.

(B) Voluntary removal and remedial actions.

(C) Removal and remedial actions under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. Sec. 9601 et seq.).

(D) Corrective actions at hazardous waste facilities.

(E) Other state removal and remedial actions.

(5) The department shall identify, with regard to the regulation of hazardous waste, the projected allocation of budgets and staff resources for the following activities:

(A) Determinations pertaining to the classification of hazardous wastes.

(B) Determinations for variances made pursuant to Section 25143.

(C) Other determinations and responses to public inquiries made by the department regarding the regulation of hazardous waste and hazardous substances.

(6) The department shall identify projected allocations of budgets and staff resources needed to identify, clean up, store, and dispose of, suspected hazardous substances associated with the investigation of clandestine drug laboratories and other hazardous materials spills.

(7) The department shall identify projected allocations of budgets and staff resources that are necessary for the department to comply with the California Environmental Quality Act (Division 21 (commencing with Section 21000) of the Public Resources Code) when making discretionary decisions pursuant to this chapter.

(8) The department shall identify the total cumulative expenditures of the Regulatory Structure Update and Site Mitigation Update projects since their inception, and shall identify the total projected allocations of budgets and staff resources that are needed to continue these projects.

(9) The department shall identify the total projected allocations of budgets and staff resources that are necessary for all other activities proposed to be conducted by the department.

(e) Notwithstanding this chapter, or Part 22 (commencing with Section 43001) of Division 2 of the Revenue and Taxation Code, for any fees, surcharges, fines, penalties, and funds which are required to be deposited into the Hazardous Waste Control Account or the Toxic Substances Control Account, the department, with the approval of the Secretary for Environmental Protection, may take any of the following actions:

(1) Assume responsibility for, or enter into a contract with a private party or with another public agency, other than the State

Board of Equalization, for the collection of any fees, surcharges, fines, penalties and funds described in subdivision (a) or otherwise described in this chapter or Chapter 6.8 (commencing with Section 25300), for deposit into the Hazardous Waste Control Account or the Toxic Substances Control Account.

(2) Administer, or by mutual agreement, contract with a private party or another public agency, for the making of those determinations and the performance of functions that would otherwise be the responsibility of the State Board of Equalization pursuant to this chapter, Chapter 6.8 (commencing with Section 25300), or Part 22 (commencing with Section 43001) of Division 2 of the Revenue and Taxation Code, if those activities and functions for which the State Board of Equalization would otherwise be responsible become the responsibility of the department or, by mutual agreement, the contractor selected by the department.

(f) If, pursuant to subdivision (e), the department, or a private party or another public agency, pursuant to a contract with the department, performs the determinations and functions that would otherwise be the responsibility of the State Board of Equalization, the department shall be responsible for ensuring that persons who are subject to the fees specified in subdivision (e) have equivalent rights to public notice and comment, and procedural and substantive rights of appeal, as afforded by the procedures of the State Board of Equalization pursuant to Part 22 (commencing with Section 43001) of Division 2 of the Revenue and Taxation Code. Final responsibility for the administrative adjustment of fee rates and the administrative appeal of any fees or penalty assessments made pursuant to this section may only be assigned by the department to a public agency.

(g) If, pursuant to subdivision (e), the department, or a private party or another public agency, pursuant to a contract with the department, performs the determinations and functions that would otherwise be the responsibility of the State Board of Equalization, the department shall have equivalent authority to make collections and enforce judgments as provided to the State Board of Equalization pursuant to Part 22 (commencing with Section 43001) of Division 2 of the Revenue and Taxation Code. Unpaid amounts, including penalties and interest, shall be a perfected and enforceable state tax lien in accordance with Section 43413 of the Revenue and Taxation Code.

(h) The department, with the concurrence of the Secretary for Environmental Protection, shall determine which administrative functions should be retained by the State Board of Equalization, administered by the department, or assigned to another public agency or private party pursuant to subdivisions (e), (f), and (g).

(i) The department may adopt regulations to implement subdivisions (e) to (h), inclusive.

(j) The Director of Finance, upon request of the director, may make a loan from the General Fund to the Hazardous Waste Control

Account to meet cash needs. The loan shall be subject to the repayment provisions of Section 16351 of the Government Code and the interest provisions of Section 16314 of the Government Code.

(k) The department shall establish, within the Hazardous Waste Control Account, a reserve of at least one million dollars ($1,000,000) each year to ensure that all programs funded by the Hazardous Waste Control Account will not be adversely affected by any revenue shortfalls.

SEC. 10. Section 25174.1 of the Health and Safety Code is amended to read:

25174.1. (a) Each person who disposes of hazardous waste in this state shall pay a fee for the disposal of hazardous waste to land, based on the type of waste placed in a disposal site, in accordance with this section and Section 25174.6.

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

(c) For purposes of this section, "dispose" and "disposal" include "disposal," as defined in Section 25113, including, but not limited to, "land treatment," as defined in subdivision (n) of Section 25205.1.

(d) Each operator of an authorized hazardous waste facility, at which hazardous wastes are disposed, shall collect a fee from any person submitting hazardous waste for disposal and shall transmit the fees to the State Board of Equalization for the disposal of those wastes. The operator shall be considered the taxpayer for purposes of Section 43151 of the Revenue and Taxation Code. The facility operator is not required to collect and transmit the fee for a hazardous waste if the operator maintains written evidence that the hazardous waste is eligible for the exemption provided by Section 25174.7 or otherwise exempted from the fees pursuant to this chapter. The written evidence may be provided by the operator or by the person submitting the hazardous waste for disposal, and shall be maintained by the operator at the facility for a minimum of three years from the date that the waste is submitted for disposal. If the operator submits the hazardous waste for disposal, the operator shall pay the same fee as would any other person.

(e) Notwithstanding subdivision (d), the disposal facility shall not be liable for the underpayment of any disposal fees for hazardous waste submitted for disposal by a person other than the operator, if the person submitting the hazardous waste to the disposal facility has done either of the following:

(1) Mischaracterized the hazardous waste.

(2) Misrepresented any exemptions pursuant to Section 25174.7 or any other exemption from the disposal fee provided pursuant to this chapter.

(f) (1) Any additional payment of disposal fees that are due to the State Board of Equalization as a result of a mischaracterization of a hazardous waste, a misrepresentation of an exemption, or any other error, shall be the responsibility of the person making the mischaracterization, misrepresentation, or error.

(2) In the event of a dispute regarding the responsibility for a mischaracterization, misrepresentation, or other error, for which additional payment of disposal fees are due, the State Board of Equalization shall assign responsibility for payment of the fee to that person, or those persons, it determines responsible for the mischaracterization, misrepresentation, or other error, provided that the person, or persons, has the right to a public hearing and comment, and the procedural and substantive rights of appeal pursuant to Part 22 (commencing with Section 43001) of Division 2 of the Revenue and Taxation Code.

(3) Any generator, transporter, or owner or operator of a disposal facility shall report to the department and the State Board of Equalization any information regarding any such mischaracterization, misrepresentation, or error, which could affect the disposal fee, within 30 days of that information first becoming known to that person.

(g) The State Board of Equalization shall deposit the fees collected pursuant to this section in the Hazardous Waste Control Account, for expenditure by the department, upon appropriation by the Legislature.

(h) The operator of the facility that disposes of the hazardous waste to land shall provide to every person who submits hazardous waste for disposal at the facility a statement showing the amount of hazardous waste fees payable pursuant to this section.

(i) Any person who disposes of hazardous waste at any site that is not an authorized hazardous waste facility shall be responsible for payment of fees pursuant to this section and shall be the taxpayer for purposes of Section 43151 of the Revenue and Taxation Code.

(j) Any administrative savings that are derived by the state as a result of changes made to this section during the 1995–96 Regular Session of the Legislature shall be made available to the department and reflected in the annual Budget Act.

SEC. 11. Section 25174.2 of the Health and Safety Code is repealed.

SEC. 11.5. Section 25174.2 is added to the Health and Safety Code, to read:

25174.2. (a) The base rate for the hazardous wastes specified in Section 25174.6 which are disposed of or submitted for disposal in the state is eighty-five dollars and twenty-four cents ($85.24) per ton for disposal of hazardous waste to land.

(b) The base rate specified in subdivision (a) is the base rate for the period of January 1, 1997, to December 31, 1997. Beginning with calendar year 1998, and for each year thereafter, the State Board of Equalization shall adjust the base rate annually to reflect increases or decreases in the cost of living during the prior fiscal year, as measured by the Consumer Price Index issued by the Department of Industrial Relations or a successor agency.

(c) This section shall become operative on January 1, 2001.

SEC. 12. Section 25174.6 of the Health and Safety Code is repealed.

SEC. 12.3. Section 25174.6 is added to the Health and Safety Code, to read:

25174.6. (a) The fee provided in Section 25174.1 shall be calculated pursuant to the requirements of this section with regard to the manner in which the hazardous waste exists at the time of disposal in this state. The following procedures shall be used for determining these fees, if the hazardous waste is not otherwise exempt from the fees imposed pursuant to this article:

(1) For RCRA hazardous wastes 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 RCRA hazardous waste, the following fees shall be paid for each ton, or fraction thereof, of hazardous waste disposed of in this state:

(A) Except as provided in subparagraph (B), for RCRA hazardous waste that is disposed of in compliance with land disposal restriction treatment standards adopted by the Environmental Protection Agency in Part 268 (commencing with Section 268.1) of Title 40 of the Code of Federal Regulations at the time of disposal, a fee of twenty-two dollars ($22) per ton.

(B) For RCRA hazardous waste subject to this paragraph that is treated so that the waste is no longer a RCRA hazardous waste at the time of disposal, the following fees shall be paid:

(i) For waste that is a non-RCRA hazardous waste, a fee of four dollars ($4) per ton.

(ii) For waste that is no longer a hazardous waste, a fee of one dollar and fifty cents ($1.50) per ton.

(2) For all other RCRA hazardous waste not subject to paragraph (1), the following fees shall be paid for each ton, or fraction thereof, of hazardous waste, disposed of in this state:

(A) If the RCRA hazardous waste is disposed of in compliance with land disposal restriction treatment standards adopted by the Environmental Protection Agency in Part 268 (commencing with Section 268.1) of Title 40 of the Code of Federal Regulations at the time of disposal, a fee of thirty-two dollars ($32) shall be paid per ton.

(B) If the RCRA hazardous waste is treated so that the waste is no longer a RCRA hazardous waste at the time of disposal, the following fees shall be paid:

(i) For waste that is a non-RCRA hazardous waste, a fee of twelve dollars and fifty cents ($12.50) per ton.

(ii) For waste that is no longer a hazardous waste, a fee of one dollar and fifty cents ($1.50) per ton.

(3) 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 this 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 (5):

(A) For a hazardous waste that is a non-RCRA hazardous waste at the time of disposal, other than asbestos, that is 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 one dollar ($1) per ton.

(B) For all other hazardous wastes that are non-RCRA hazardous waste at the time of disposal, a fee of ten dollars and fifty cents ($10.50) per ton.

(4) For each ton, or fraction thereof, for up to the first 5,000 tons of hazardous waste disposed of, or submitted for disposal, in this state, at each specific offsite facility by each producer, or at each specific onsite facility, per month, that results 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 (5), a fee of ten dollars and fifty cents ($10.50) per ton.

(5) A fee of two hundred dollars ($200) per ton shall be paid for each ton, or fraction thereof, of the following types of hazardous wastes disposed of in this state:

(A) Hazardous waste that is extremely hazardous waste at the time of disposal.

(B) Hazardous waste that is a restricted hazardous waste listed in subdivision (b) of Section 25122.7 at the time of disposal.

(6) (A) Four dollars ($4) shall be paid for each ton, or fraction thereof, of hazardous waste disposed of, or submitted for disposal, in this state, that is a solid hazardous waste residue resulting from incineration or dechlorination.

(B) No fees shall be imposed pursuant to this paragraph on a solid hazardous waste residue resulting from incineration or dechlorination that is disposed of, or submitted for disposal, outside this 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 exists at the time of 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, as that section read on January 1, 1998. However, the weight of any nonhazardous reagents or treatment additives added to the hazardous waste, after it has been submitted for disposal, for purposes

of rendering the hazardous waste less hazardous, shall not be included in those calculations.

(c) All fees imposed pursuant to this section shall be paid in accordance with part 22 (commencing with Section 43001) of Division 2 of the Revenue and Taxation Code.

(d) The disposal fee rates specified in this section shall be the rates for the period of January 1, 1998, to December 31, 1998. Beginning with calendar year 1999, and for each year thereafter, the State Board of Equalization shall, at the request of the department, adjust those rates to reflect increases or decreases in the cost of living during the prior year, as measured by the Department of Industrial Relations or a successor agency.

(e) This section shall become operative on January 1, 1998, and 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. 12.5. Section 25174.6 is added to the Health and Safety Code, to read:

25174.6. (a) The fee provided pursuant to Section 25174.1 shall be determined as a percentage of the base rate, as adjusted by the State Board of Equalization, pursuant to Section 25174.2, 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 five dollars and seventy-two cents ($5.72) 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.

(d) This section shall become operative on January 1, 2001.

SEC. 13. Section 25178.1 of the Health and Safety Code is amended to read:

25178.1. The State Board of Equalization shall provide quarterly reports to the Legislature on the fees collected pursuant to Sections 25174.1, 25205.2, and 25205.5. The reports shall be due on the 15th day of the second month following each quarter.

SEC. 14. Section 25187 of the Health and Safety Code is amended to read:

25187. (a) (1) Whenever the department, a unified program agency authorized pursuant to paragraph (2), local health officer authorized pursuant to Section 25187.7, or a local public officer designated by the director pursuant to subdivision (a) of Section 25180 and authorized pursuant to Section 25187.7 determines that any person has violated, is in violation of, or threatens, as defined in subdivision (e) of Section 13304 of the Water Code, to violate, this chapter, Chapter 6.8 (commencing with Section 25300) of this division, or Article 3 (commencing with Section 114990) of Chapter 8 of Part 9 of Division 104, or any permit, rule, regulation, standard, or requirement issued or adopted pursuant to this chapter, Chapter 6.8 (commencing with Section 25300) of this division, or Article 3 (commencing with Section 114990) of Chapter 8 of Part 9 of Division 104, or the department, an authorized unified program agency, an authorized local health officer, or an authorized local public officer determines that there is or has been a release, as defined in Chapter 6.8 (commencing with Section 25300), of hazardous waste or constituents into the environment from a hazardous waste facility, the department, an authorized unified program agency, authorized local health officer, or authorized local public officer may issue an order specifying a schedule for compliance or correction and imposing an administrative penalty for any violation of this chapter or any permit, rule, regulation, standard, or requirement issued or adopted pursuant to this chapter. In the case of a release of hazardous waste or constituents into the environment from a hazardous waste facility that is required to obtain a permit pursuant to Article 9 (commencing with Section 25200), the department shall pursue the remedies available under this chapter, including the issuance of an order for corrective action pursuant to this section, before using the legal remedies available pursuant to Chapter 6.8 (commencing with Section 25300), except in any of the following circumstances:

(A) Where the person who is responsible for the release voluntarily requests in writing that the department issue an order to that person to take corrective action pursuant to Chapter 6.8 (commencing with Section 25300).

(B) Where the person who is responsible for the release is unable to pay for the cost of corrective action to address the release. For purposes of this subparagraph, the inability of a person to pay for the cost of corrective action shall be determined in accordance with the

policies of the Environmental Protection Agency for the implementation of Section 9605 of Title 42 of the United States Code.

(C) Where the person responsible for the release is unwilling to perform corrective action to address the release. For purposes of this subparagraph, the unwillingness of a person to take corrective action shall be determined in accordance with the policies of the Environmental Protection Agency for the implementation of Section 9605 of Title 42 of the United States Code.

(D) Where the release is part of a regional or multisite groundwater contamination problem that cannot, in its entirety, be addressed using the legal remedies available pursuant to this chapter and for which other releases that are part of the regional or multisite groundwater contamination problem are being addressed using the legal remedies available pursuant to Chapter 6.8 (commencing with Section 25300).

(E) Where an order for corrective action has already been issued against the person responsible for the release, or the department and the person responsible for the release have, prior to January 1, 1996, entered into an agreement to address the required cleanup of the release pursuant to Chapter 6.8 (commencing with Section 25300).

(F) Where the hazardous waste facility is owned or operated by the federal government.

(2) The authority granted under this section to a unified program agency is limited to the issuance of orders to correct releases from, and violations of the requirements of this chapter listed in paragraph (1) of subdivision (c) of Section 25404 occurring at, a unified program facility within the jurisdiction of the CUPA, and is subject to the provisions of Section 25404.1.

(A) Notwithstanding paragraph (1) and Section 25187.7, within the jurisdiction of a CUPA, the unified program agencies shall be the only local agencies authorized to issue orders under this section to correct releases from, and violations of the requirements of this chapter listed to paragraph (1) of subdivision (c) of Section 25404 occurring at, a unified program facility.

(B) The CUPA shall annually submit a summary report to the department on the status of orders issued by the unified program agencies under this section and Section 25187.1.

(C) The department shall adopt regulations to implement this paragraph and paragraph (2) of subdivision (a) of Section 25187.1. The regulations shall include, but not be limited to, all of the following requirements:

(i) A requirement that the unified program agency shall consult with the district attorney for the county on the development of policies to be followed by the unified program agency in exercising the authority delegated pursuant to this section and Section 25187.1.

(ii) Provisions to ensure coordinated and consistent application of this section and Section 25187.1 when both the department and the

unified program agency have or will be issuing orders under one or both of these sections at the same facility.

(iii) Provisions to ensure that the enforcement authority granted to the unified program agencies will be exercised consistently throughout the state.

(iv) A requirement that the unified program agency have the ability to represent itself in administrative appeal hearings.

(v) Minimum training requirements for staff of the unified program agency relative to this section and Section 25187.1.

(vi) Procedures to be followed by the department to rescind the authority granted to a unified program agency under this section and Section 25187.1, if the department finds that the unified program agency is not exercising that authority in a manner consistent with the provisions of this chapter and Chapter 6.11 (commencing with Section 25404) and the regulations adopted pursuant thereto.

(3) An order issued pursuant to this section shall include a requirement that the person take corrective action with respect to hazardous waste, including the cleanup of the hazardous waste, abatement of the effects thereof, and any other necessary remedial action. An order issued pursuant to this section that requires corrective action at a hazardous waste facility shall require that corrective action be taken beyond the facility boundary, where necessary to protect human health or the environment. The order shall incorporate, as a condition of the order, any applicable waste discharge requirements issued by the State Water Resources Control Board or a California regional water quality control board, and shall be consistent with all applicable water quality control plans adopted pursuant to Section 13170 of the Water Code and Article 3 (commencing with Section 13240) of Chapter 4 of Division 7 of the Water Code and state policies for water quality control adopted pursuant to Article 3 (commencing with Section 13140) of Chapter 3 of Division 7 of the Water Code existing at the time of the issuance of the order, to the extent that the department, authorized unified program agency, authorized local health officer, or authorized local public officer determines that those plans and policies are not less stringent than this chapter and regulations adopted pursuant to this chapter. The department, authorized unified program agency, authorized local health officer, or authorized local public officer also may include any more stringent requirement that the department, authorized unified program agency, authorized local health officer, or authorized local public officer determines is necessary or appropriate to protect water quality. Persons who are subject to an order pursuant to this section include present and prior owners, lessees, or operators of the property where the hazardous waste is located, present or past generators, storers, treaters, transporters, disposers, and handlers of hazardous waste, and persons who arrange, or have arranged, by contract or other agreement, to store, treat, transport, dispose of, or otherwise handle hazardous waste.

(4) In an order proposing a penalty pursuant to this section, the department, authorized unified program agency, authorized local health officer, or authorized local public officer shall take into consideration the nature, circumstances, extent, and gravity of the violation, the violator's past and present efforts to prevent, abate, or clean up conditions posing a threat to the public health or safety or the environment, the violator's ability to pay the proposed civil penalty, and the prophylactic effect that imposition of the proposed penalty would have on both the violator and the regulated community as a whole.

(b) For purposes of subdivision (a), "hazardous waste facility" includes the entire site that is under the control of an owner or operator engaged in the management of hazardous waste.

(c) Any order issued pursuant to subdivision (a) shall be served by personal service or certified mail and shall inform the person so served of the right to a hearing.

(d) (1) Any person served with an order pursuant to subdivision (c) who has been unable to resolve any violation or deficiency on an informal basis with the department, authorized unified program agency, authorized local health officer, or authorized local public officer may, within 15 days after service of the order, request a hearing by filing with the department, authorized unified program agency, authorized local health officer, or authorized local public officer a notice of defense. The notice shall be filed with the office that issued the order. A notice of defense shall be deemed filed within the 15-day period provided by this subdivision if it is postmarked within that 15-day period. If no notice of defense is filed within the time limits provided by this subdivision, the order shall become final.

(2) If a person served with an order pursuant to subdivision (c) chooses to resolve the content, terms, or conditions of the order directly with the department, authorized unified program agency, authorized local health officer, or authorized local public officer and does not file an administrative or judicial appeal, the person may request, and the department, authorized unified program agency, authorized local health officer, or authorized local public officer shall prepare, a written statement, that the department, authorized unified program agency, authorized local health officer, or authorized local public officer shall amend into the order, that explains the violation and the penalties applied, including the nature, extent, and gravity of the violations, and that includes a brief description of any mitigating circumstances and any explanations by the respondent. Any amendment to include the written statement prepared pursuant to this subdivision does not constitute a new order and does not create new appeal rights.

(e) Except as provided in subdivision (f), any hearing requested under subdivision (d) shall be conducted within 90 days after receipt of the notice of defense by an administrative law judge of the Office of Administrative Hearings of the Department of General Services

in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the department, authorized unified program agency, authorized local health officer, or authorized local public officer shall have all the authority granted to an agency by those provisions.

(f) Any provision of an order issued under subdivision (a), except the imposition of an administrative penalty, shall take effect upon issuance by the department or unified program agency if the department or unified program agency finds that the violation or violations of law associated with that provision may pose an imminent and substantial endangerment to the public health or safety or the environment, and a request for a hearing shall not stay the effect of that provision of the order pending a decision by the department under subdivision (e). However, in the event that the department or unified program agency determines that any or all provisions of the order are so related that the public health or safety or the environment can be protected only by immediate compliance with the order as a whole, then the order as a whole, except the imposition of an administrative penalty, shall take effect upon issuance by the department or unified program agency. A request for a hearing shall not stay the effect of the order as a whole pending a decision by the hearing officer under subdivision (e). Any order issued after a hearing requested under subdivision (d) shall take effect upon issuance by the department or unified program agency.

(g) A decision issued pursuant to this section may be reviewed by the court pursuant to Section 11523 of the Government Code. In all proceedings pursuant to this subdivision, the court shall uphold the decision of the department, authorized unified program agency, authorized local health officer, or authorized local public officer 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 chapter. This subdivision does not prohibit the court from granting any appropriate relief within its jurisdiction.

(h) Except as otherwise provided in subdivisions (i) and (j), all administrative penalties collected under this section shall be placed in a separate subaccount in the Toxic Substances Control Account and shall be available only for transfer to the Site Remediation Account or the Expedited Site Remediation Trust Fund and for expenditure by the department upon appropriation by the Legislature.

(i) Fifty percent of the penalties collected from actions brought by unified program agencies, local health officers or designated local public officers pursuant to this section shall be paid to the city or county whose unified program agency, local health officer, or designated local public officer imposed the penalty, and shall be deposited into a special account that may be expended to fund the

activities of the unified program agency, local health officer, or designated local public officer in enforcing this chapter pursuant to Section 25180, after the director determines that the local agency enforcement of this section is fair and reasonable.

(j) Fifty percent of the penalties collected from actions brought by unified program agencies, local health officers, or designated local public officers pursuant to this section shall be paid to the department and deposited in the Hazardous Waste Control Account for expenditure by the department, upon appropriation by the Legislature, in connection with activities of unified program agencies, local health officers, or designated local public officers.

SEC. 14.5. Section 25187.9 of the Health and Safety Code is repealed.

SEC. 15. Section 25192 of the Health and Safety Code is amended to read:

25192. (a) All civil and criminal penalties collected pursuant to this chapter or Chapter 6.6 (commencing with Section 25249.5) shall be apportioned in the following manner:

(1) Fifty percent shall be deposited in the Hazardous Substances Account in the General Fund.

(2) Twenty-five percent shall be paid to the office of the city attorney, city prosecutor, district attorney, or Attorney General, whichever office brought the action, or in the case of an action brought by a person under subdivision (d) of Section 25249.7 to that person.

(3) Twenty-five percent shall be paid to the department and used to fund the activity of the CUPA, the local health officer, or other local public officer or agency authorized to enforce the provisions of this chapter pursuant to Section 25180, whichever entity investigated the matter that led to the bringing of the action. If investigation by the local police department or sheriff's office or California Highway Patrol led to the bringing of the action, the CUPA, the local health officer, or the authorized officer or agency, shall pay a total of 40 percent of its portion under this subdivision to that investigating agency or agencies to be used for the same purpose. If more than one agency is eligible for payment under this paragraph, division of payment among the eligible agencies shall be in the discretion of the CUPA, the local health officer, or the authorized officer or agency.

(b) If a reward is paid to a person pursuant to Section 25191.7, the amount of the reward shall be deducted from the amount of the civil penalty before the amount is apportioned pursuant to subdivision (a).

SEC. 16. Section 25201.6 of the Health and Safety Code is amended to read:

25201.6. (a) For purposes of this section and Section 25205.2, the following terms have the following meaning:

(1) "Series A standardized permit" means a permit issued to a facility that meets one of the following conditions:

(A) The total influent volume of liquid hazardous waste treated is greater than 50,000 gallons per calendar month.

(B) The total volume of solid hazardous waste treated is greater than 100,000 pounds per calendar month.

(C) Where both liquid and solid hazardous wastes are being treated, either the total volume of liquid hazardous waste treated exceeds the volume specified in subparagraph (A), or the total volume of solid hazardous waste treated exceeds the volume specified in subparagraph (B).

(D) The total facility storage design capacity is greater than 500,000 gallons for liquid hazardous waste.

(E) The total facility storage design capacity is greater than 500 tons for solid hazardous waste.

(F) Where both liquid and solid hazardous waste are being stored, the total volume of liquid hazardous waste stored exceeds the volume specified in subparagraph (D), or the total volume of solid hazardous waste stored exceeds the volume specified in subparagraph (E).

(G) A volume of liquid or solid hazardous waste is stored at the facility for more than one calendar year.

(2) "Series B standardized permit" means a permit issued to a facility that does not store liquid or solid hazardous waste for a period of more than one calendar year, and that meets one of the following conditions:

(A) The total influent volume of liquid hazardous waste treated is greater than 5,000 gallons, but less than 50,000 gallons, per calendar month.

(B) The total volume of solid hazardous waste treated is greater than 10,000 pounds, but less than 100,000 pounds, per calendar month.

(C) Where both liquid and solid hazardous wastes are being treated, the total volume of liquid hazardous waste treated does not exceed the volume specified in subparagraph (A), and the volume of solid hazardous waste treated does not exceed the volume specified in subparagraph (B).

(D) The total facility storage design capacity is greater than 50,000 gallons, but less than 500,000 gallons, for liquid hazardous waste.

(E) The total facility storage design capacity is greater than 100,000 pounds, but less than 500 tons, for solid hazardous waste.

(F) Where both liquid and solid hazardous wastes are being stored, the total volume of liquid hazardous waste stored does not exceed the volume specified in subparagraph (D), and the total volume of solid hazardous waste stored does not exceed the volume specified in subparagraph (E).

(3) "Series C standardized permit" means a permit issued to a facility that does not store liquid or solid hazardous waste for a period of more than one calendar year, that does not conduct thermal treatment of hazardous waste, with the exception of evaporation, and that meets one of the following conditions:

(A) The total influent volume of liquid hazardous waste treated does not exceed 5,000 gallons per calendar month.

(B) The total volume of solid hazardous waste treated does not exceed 10,000 pounds per calendar month.

(C) Where both liquid and solid hazardous wastes are being treated, the total volume of liquid hazardous waste treated does not exceed the volume specified in subparagraph (A), and the total volume of solid hazardous waste treated does not exceed the volume specified in subparagraph (B).

(D) The total facility storage design capacity does not exceed 50,000 gallons for liquid hazardous waste.

(E) The total facility storage design capacity does not exceed 100,000 pounds for solid hazardous waste.

(F) Where both liquid and solid hazardous wastes are being stored, the total volume of liquid hazardous waste stored does not exceed the volume specified in subparagraph (D) and the total volume of solid hazardous waste stored does not exceed the volume specified in subparagraph (E).

(G) The surface impoundment is used to contain non-RCRA hazardous waste that meets the requirements of paragraph (3) of subdivision (g).

(b) The department shall adopt regulations specifying standardized hazardous waste facilities permit application forms that may be completed by a non-RCRA Series A, B, or C treatment, storage, or treatment and storage facility, in lieu of other hazardous waste facilities permit application procedures set forth in regulations. The department shall not issue permits under this section to specific classes of facilities unless the department finds that doing so will not create a competitive disadvantage to a member or members of that class which were in compliance with the permitting requirements which were in effect on September 1, 1992.

(c) The regulations adopted pursuant to subdivision (b) shall include all of the following:

(1) Require that the standardized permit notification be submitted to the department on or before October 1, 1993, for facilities existing on or before September 1, 1992, except for facilities specified in paragraphs (2) and (3) of subdivision (g). The standardized permit notification shall include, at a minimum, the information required for a Part A application as described in the regulations adopted by the department.

(2) Require that the standardized permit application be submitted to the department within six months of the submittal of the standardized permit notification. The standardized permit application shall require, at a minimum, that the following information be submitted to the department for review prior to the final permit determination:

(A) A description of the treatment and storage activities to be covered by the permit, including the type and volumes of waste, the treatment process, equipment description, and design capacity.

(B) A copy of the closure plan as required by paragraph (13) of subdivision (b) of Section 66270.14 of Title 22 of the California Code of Regulations.

(C) A description of the corrective action program, as required by Section 25200.10.

(D) Financial responsibility documents specified in paragraph (17) of subdivision (b) of Section 66270.14 of Title 22 of the California Code of Regulations.

(E) A copy of the topographical map as specified in paragraph (18) of subdivision (b) of Section 66270.14 of Title 22 of the California Code of Regulations.

(F) A description of the individual container, and tank and containment system, and of the engineer's certification, as specified in Sections 66270.15 and 66270.16 of Title 22 of the California Code of Regulations.

(G) Documentation of compliance, if applicable, with the requirements of Article 8.7 (commencing with Section 25199).

(3) Require that a facility operating pursuant to a standardized permit comply with the liability assurance requirements in Section 25200.1.

(4) Specify which of the remaining elements of the permit application as described in subdivision (b) of Section 66270.14 of the California Code of Regulations shall be the subject of a certification of compliance by the applicant.

(5) Establish a procedure for imposing an administrative penalty pursuant to Section 25187, in addition to any other penalties provided by this chapter, upon an owner or operator of a treatment or storage facility that is required to obtain a hazardous waste facilities permit and that meets the criteria for a Series A, B, or C permit listed in subdivision (a), who does not submit a standardized permit notification to the department on or before the submittal deadline specified in paragraph (1) or the submittal deadline specified in paragraph (2) or (3) of subdivision (g), whichever date is applicable, and who continues to operate the facility without obtaining a hazardous waste facilities permit or other grant of authorization from the department after the applicable deadline for submitting the notification to the department. In determining the amount of the administrative penalty to be assessed, the regulations shall require the amount to be based upon the economic benefit gained by that owner or operator as a result of failing to comply with this section.

(6) Require that a facility operating pursuant to a standardized permit comply, at a minimum, with the interim status facility operating requirements specified in the regulations adopted by the department, except that the regulations adopted pursuant to this section may specify financial assurance amounts necessary to

adequately respond to damage claims at levels that are less than those required for interim status facilities if the department determines that lower financial assurance levels are appropriate.

(d) (1) Any regulations adopted pursuant to this section may be adopted as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(2) On and before January 1, 1995, the adoption of the regulations pursuant to paragraph (1) is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, and general welfare.

(e) The department may not grant a permit under this section unless the department has determined the adequacy of the material submitted with the application and has conducted an inspection of the facility and determined all of the following:

(1) The treatment process is an effective method of treating the waste, as described in the permit application.

(2) The corrective action plan is appropriate for the facility.

(3) The financial assurance is sufficient for the facility.

(f) (1) Interim status shall not be granted to a facility that does not submit a standardized permit notification on or before October 1, 1993, unless the facility is subject to paragraph (2) or (3) of subdivision (g).

(2) Interim status shall be revoked if the permit application is not submitted within six months of the permit notification.

(3) Interim status granted to any facility pursuant to this section and Sections 25200.5 and 25200.9 shall terminate upon a final permit determination or January 1, 1998, whichever date is earlier. This paragraph shall apply retroactively to facilities for which a final permit determination is made on or after September 30, 1995.

(4) A treatment, storage, or treatment and storage facility operating pursuant to interim status which applies for a permit pursuant to this section shall pay fees to the department in an amount equal to the fees established by subdivision (e) of Section 25205.4 for the same size and type of facility.

(g) (1) Except as provided in paragraphs (2) and (3), a facility treating used oil or solvents, or which engages in incineration, thermal destruction, or any land disposal activity, is not eligible for a standardized permit pursuant to this section.

(2) (A) Notwithstanding paragraph (1), an offsite facility treating solvents is eligible for a standardized permit pursuant to this section if all of the following conditions are met:

(i) The facility exclusively treats solvent wastes, and is not required to obtain a permit pursuant to the federal act.

(ii) The solvent wastes that the facility treats are only the types of solvents generated from dry cleaning operations.

(iii) Ninety percent or more of the solvents that the facility receives are from dry cleaning operations.

(iv) Ninety percent or more of the solvents that the facility receives are recycled and sold by the facility, excluding recycling for energy recovery, provided that the facility does not produce more than 15,000 gallons per month of recycled solvents.

(B) A facility that is eligible for a standardized permit pursuant to this paragraph is also eligible for the fee exemption provided in subdivision (d) of Section 25205.12 for any year or reporting period prior to January 1, 1995, if the owner or operator complies with the notification and application requirements of this section on or before March 1, 1995.

(C) A facility treating solvents pursuant to this paragraph shall clearly label all recycled solvents as recycled prior to subsequent sale or distribution.

(D) Notwithstanding that a facility eligible for a standardized permit pursuant to this paragraph meets the eligibility requirements for a Series C standardized permit specified in paragraph (3) of subdivision (a), the facility shall obtain and meet the requirements for a Series B standardized permit specified in paragraph (2) of subdivision (a).

(E) Notwithstanding any other provision of this chapter, for purposes of this paragraph, if the recycled material is to be used for dry cleaning, "recycled" means the removal of water and inhibitors from waste solvent and the production of dry cleaning solvent with an appropriate inhibitor for dry cleaning use. The removal of inhibitors is not required if all of the solvents received by the facility that are recycled for dry cleaning use are from dry cleaners.

(3) (A) Notwithstanding paragraph (1), an owner or operator with a surface impoundment used only to contain non-RCRA wastes generated onsite, that holds those wastes for not more than one 30-day period in any calendar year, and that meets the criteria specified in paragraphs (i) to (iii), inclusive, may submit a Series C standardized permit application to the department. A surface impoundment is eligible for operation under the Series C standardized permit tier if all of the following requirements are met:

(i) The waste and any residual materials are removed from the surface impoundment within 30 days of the date the waste was first placed into the surface impoundment.

(ii) The owner or operator has, and is in compliance with, current waste discharge requirements issued by the appropriate California regional water quality control board for the surface impoundment.

(iii) The owner or operator complies with all applicable groundwater monitoring requirements of the regulations adopted by the department pursuant to this chapter.

(B) A facility that is eligible for a standardized permit pursuant to this paragraph is also eligible for the fee exemption provided in subdivision (d) of Section 25205.12 for any year or reporting period

prior to January 1, 1996, if the owner or operator complies with the notification and application requirements of this section on or before March 1, 1996.

(h) Facilities operating pursuant to this section shall comply with Article 4 (commencing with Section 66270.40) of Chapter 20 of Division 4.5 of Title 22 of the California Code of Regulations.

(i) (1) The department shall require an owner or operator applying for a standardized permit to complete and file a phase I environmental assessment with the application. However, if a RCRA facility assessment has been performed by the department, the assessment shall be deemed to satisfy the requirement of this subdivision to complete and file a phase I environmental assessment, and the facility shall not be required to submit a phase I environmental assessment with its application.

(2) (A) For purposes of this subdivision, the phase I environmental assessment shall include a preliminary site assessment, as described in subdivision (b) of Section 25200.14, except that the phase I environmental assessment shall also include a certification, signed, except as provided in subparagraph (B), by the owner, and also by the operator if the operator is not the owner, of the facility and an independent professional engineer, geologist, or environmental assessor registered in the state.

(B) Notwithstanding subparagraph (A), the certification for a permanent household waste collection facility may be signed by any professional engineer, geologist, or environmental assessor registered in the state, including, but not limited to, such a person employed by the governmental entity, but if the facility owner is not a governmental entity, the engineer, geologist, or assessor signing the certification shall not be employed by, or be an agent of, the facility owner.

(3) The certification specified in paragraph (2) shall state whether evidence of a release of hazardous waste or hazardous constituents has been found.

(4) If evidence of a release has been found, the facility shall complete a detailed site assessment to determine the nature and extent of any contamination resulting from the release and shall submit a corrective action plan to the department, within one year of submittal of the standardized permit application.

(j) The department shall establish an inspection program to identify, inspect, and bring into compliance any treatment, storage, or treatment and storage facility which is eligible for, and is required to obtain, a standardized hazardous waste facilities permit pursuant to this section, and which is operating without a permit or other grant of authorization from the department for that treatment or storage activity.

(k) A treatment, storage, or treatment and storage facility authorized to operate pursuant to a hazardous waste facilities permit issued pursuant to Section 25200, which meets the criteria listed in

subdivision (a) for a standardized permit, may operate pursuant to a Series A, B, or C standardized permit by completing the appropriate permit modification procedure specified in the regulations for such a modification.

SEC. 17. Section 25201.9 of the Health and Safety Code is amended to read:

25201.9. (a) Upon the written request of any person, the department may enter into an agreement with that person pursuant to which the department will perform consultative services for the purpose of providing assistance to the person, or any facility owned or operated by the person, in complying with this chapter, Chapter 6.8 (commencing with Section 25300), and any regulations adopted pursuant to those provisions. The agreement shall require the person to reimburse the department for its costs of performing the consultative services pursuant to Article 9.2 (commencing with Section 25206.1). The agreement may provide for some or all of the reimbursement to be made in advance of the performance of the consultative services.

(b) The consultative services performed pursuant to subdivision (a) shall be over and above the routine functions of the department, and may include, but need not be limited to, onsite inspections, regulation and compliance training, and technical consultation.

(c) Any reimbursement received for assistance in complying with this chapter pursuant to this section shall be placed in the Hazardous Waste Control Account for disbursement in accordance with Section 25174. Any reimbursement received for assistance in complying with Chapter 6.8 (commencing with Section 25300) shall be deposited in the Toxic Substances Control Account for expenditure in accordance with Section 25173.6.

(d) The consultative services shall be provided subject to available staff and resources as determined by the department, and may include, but need not be limited to, onsite inspections, regulation and compliance training, and technical consultation.

(e) In scheduling limited onsite inspections, priority shall be given to businesses with fewer than 50 employees.

(f) (1) The staff of the department providing consultation pursuant to this section shall not initiate an administrative or civil enforcement action, except as specified in subdivision (g), for violations identified during a limited onsite inspection conducted pursuant to an agreement at a facility which does not require a permit pursuant to the federal act.

(2) The staff of the department shall require the owner or operator to correct any identified deficiencies and violations in accordance with a schedule for compliance or correction issued by the department.

(g) If class I violations, as defined in regulations adopted by the department, are identified during a limited onsite inspection, or an owner or operator refuses or fails to correct any deficiencies or

violations within the timeframe specified in the schedule for compliance or correction issued by the department pursuant to subdivision (f), the department may undertake any further inspection, investigation, or enforcement action authorized by law.

(h) The failure of the department to discover any particular deficiencies or violations during a limited onsite inspection shall not preclude the department, or any other agency, from undertaking a subsequent enforcement action to address any deficiencies or violations should they be discovered at a later time.

(i) Nothing in this section is intended to limit the authority of the department to refer criminal violations to the Attorney General, a district attorney, a county counsel, or a city attorney.

(j) Other than as expressly provided in this section, nothing in this section is intended to limit or restrict the authority of the department under any other provision of this division.

(k) This section shall become operative only if the department adopts regulations defining “class I violations.”

SEC. 18. Section 25204.7 of the Health and Safety Code is amended to read:

25204.7. (a) Notwithstanding any other provision of law, a generator conducting a treatment activity that is eligible for operation under a permit-by-rule pursuant to the department’s regulations, a grant of conditional authorization, or a grant of conditional exemption pursuant to this chapter, and who meets the criteria in subdivision (b), is exempt from all of the following requirements:

(1) The requirement for a generator to submit a notification to the department under Sections 25144.6, 25200.3, and 25201.5 and the regulations adopted by the department pertaining to a permit-by-rule.

(2) The requirement to pay a fee pursuant to Section 25201.14 or 25205.14.

(b) To be eligible for an exemption pursuant to this section, the generator shall meet all of the following requirements:

(1) The generator is located within the jurisdiction of a certified unified program agency that includes the publicly owned treatment works that regulates the generator’s activity or unit that is eligible for operation under a permit-by-rule or a grant of conditional authorization or conditional exemption, and which has implemented a unified program pursuant to Chapter 6.11 (commencing with Section 25404) that includes the following elements:

(A) The pretreatment program of the publicly owned treatment works that regulates the generator.

(B) An inspection program that meets the requirements of Section 25201.4 and that inspects the generator for compliance with the requirements of this section.

(2) The generator meets all other requirements of this chapter and the department’s regulations pertaining to permit-by-rule,

conditional authorization, or conditional exemption, whichever is applicable.

(3) The generator's activity or unit that is eligible for operation under a permit-by-rule or a grant of conditional authorization or conditional exemption is within the scope of the hazardous waste element of the unified program, as specified in paragraph (1) of subdivision (c) of Section 25404.

SEC. 19. Section 25205.4 of the Health and Safety Code is amended to read:

25205.4. (a) The base rate for the 1997 reporting period for the facility fee imposed by Section 25205.2 is nineteen thousand seven hundred sixty-one dollars ($19,761). Commencing with the 1998 reporting period, and for each reporting period thereafter, the board shall adjust the base rate annually to reflect increases or decreases in the cost of living during the prior fiscal year, as measured by the Consumer Price Index issued by the Department of Industrial Relations or by a successor agency.

(b) The determination of the facility fee pursuant to this section, including the redetermination of the base rate, is exempt from Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(c) Except as provided in subdivision (e), in computing the facility fees, all of the following shall apply:

(1) The fee to be paid by a ministorage facility shall equal 25 percent of the base facility rate.

(2) The fee to be paid by a small storage facility shall equal the base facility rate.

(3) The fee to be paid by a large storage facility shall equal twice the base facility rate.

(4) The fee to be paid by a minitreatment facility shall equal 50 percent of the base facility rate.

(5) The fee to be paid by a small treatment facility shall equal twice the base facility rate.

(6) The fee to be paid by a large onsite treatment facility shall equal three times the base facility rate.

(7) The fee to be paid by a large offsite treatment facility shall be as follows:

(A) The annual facility fees for 1998, 1999, and 2000 shall equal 2.25 times the base facility rate.

(B) Beginning with the annual facility fee for 2001, the annual facility fee shall equal three times the base facility rate.

(8) The fee to be paid by a disposal facility shall equal 10 times the base facility rate.

(9) (A) The fee to be paid by a facility with a postclosure permit shall be five thousand seven hundred twenty-five dollars ($5,725) annually for a small facility, eleven thousand four hundred fifty dollars ($11,450) annually for a medium facility, and seventeen thousand one hundred seventy-five dollars ($17,175) for a large

facility during the first five years of the postclosure period. The fee to be paid by a facility with a postclosure permit during the remaining years of the postclosure care period shall be three thousand fifty dollars ($3,050) annually for a small facility, six thousand one hundred dollars ($6,100) annually for a medium facility, and ten thousand three hundred dollars ($10,300) annually for a large facility.

(B) The fees required by subparagraph (A) shall be reduced by 50 percent for any facility for which an agency, other than the department, is the lead agency pursuant to paragraph (1) of subdivision (b) of Section 25204.6.

(d) If a facility falls into more than one category listed in either subdivision (c) or (e), or any combination thereof, or multiple operations under a single hazardous waste facilities permit or grant of interim status fall into more than one category listed in subdivision (c) or (e), or any combination thereof, the facility operator shall pay only the rate for the facility category which is the highest rate.

(e) Notwithstanding subdivision (c), the facility fee for a facility that has been issued a standardized permit shall be as follows:

(1) The fee to be paid for a facility that has been issued a Series A standardized permit shall be eleven thousand seven hundred thirty dollars ($11,730).

(2) The fee to be paid for a facility that has been issued a Series B standardized permit shall be five thousand four hundred ninety-seven dollars ($5,497).

(3) Except as specified in paragraph (4), the fee to be paid for a facility that has been issued a Series C standardized permit shall be four thousand six hundred seventeen dollars ($4,617).

(4) The fee for a facility that has been issued a Series C standardized permit is two thousand three hundred eight dollars ($2,308) if the facility meets all of the following conditions:

(A) The facility treats not more than 1,500 gallons of liquid hazardous waste and not more than 3,000 pounds of solid hazardous waste in any calendar month.

(B) The total facility storage capacity does not exceed 15,000 gallons of liquid hazardous waste and 30,000 pounds of solid hazardous waste.

(C) If the facility both treats and stores hazardous waste, the facility does not exceed the volume limitations specified in subparagraphs (A) and (B) for each individual activity.

(f) The fee imposed pursuant to this section shall be paid in accordance with Part 22 (commencing with Section 43001) of Division 2 of the Revenue and Taxation Code.

SEC. 20. Section 25205.5 of the Health and Safety Code is amended to read:

25205.5. (a) In addition to the fee imposed pursuant to Section 25174.1, every generator of hazardous waste, in the amounts specified in subdivision (c), shall pay the board a generator fee for each

generator site for each calendar year, or portion thereof, unless the generator has paid a facility fee or received a credit, as specified in Section 25205.2, for each specific site, for the calendar year for which the generator fee is due.

(b) The base fee rate for the fee imposed pursuant to subdivision (a) is two thousand seven hundred forty-eight dollars ($2,748).

(c) (1) Each generator who generates an amount equal to, or more than, five tons, but less than 25 tons, of hazardous waste during the prior calendar year shall pay 5 percent of the base rate.

(2) Each generator who generates an amount equal to, or more than, 25 tons, but less than 50 tons, of hazardous waste during the prior calendar year shall pay 40 percent of the base rate.

(3) Each generator who generates an amount equal to, or more than, 50 tons, but less than 250 tons, of hazardous waste during the prior calendar year shall pay the base rate.

(4) Each generator who generates an amount equal to, or more than, 250 tons, but less than 500 tons, of hazardous waste during the prior calendar year shall pay five times the base rate.

(5) Each generator who generates an amount equal to, or more than, 500 tons, but less than 1,000 tons, of hazardous waste during the prior calendar year shall pay 10 times the base rate.

(6) Each generator who generates an amount equal to, or more than, 1,000 tons, but less than 2,000 tons, of hazardous waste during the prior calendar year shall pay 15 times the base rate.

(7) Each generator who generates an amount equal to, or more than, 2,000 tons of hazardous waste during the prior calendar year shall pay 20 times the base rate.

(d) The base rate established pursuant to subdivision (b) was the base rate for the 1997 calendar year and the board shall adjust the base rate annually to reflect increases or decreases in the cost of living, during the prior fiscal year, as measured by the Consumer Price Index issued by the Department of Industrial Relations or by a successor agency.

(e) The establishment of the annual operating fee pursuant to this section is exempt from Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(f) The following materials are not hazardous wastes for purposes of this section:

(1) Hazardous materials which are recycled, and used onsite, and are not transferred offsite.

(2) Aqueous waste treated in a treatment unit operating, or which subsequently operates, pursuant to a permit-by-rule, or pursuant to Section 25200.3 or 25201.5. However, hazardous waste generated by a treatment unit treating waste pursuant to a permit-by-rule, by a unit which subsequently obtains a permit-by-rule, or other authorization pursuant to Section 25200.3 or 25201.5 is hazardous waste for purposes of this section.

(g) The fee imposed pursuant to this section shall be paid in accordance with Part 22 (commencing with Section 43001) of Division 2 of the Revenue and Taxation Code.

(h) (1) The amendment of this section made by Chapter 1125 of the Statutes of 1991 does not constitute a change in, but is declaratory of, existing law.

(2) The amendment of subdivision (a) of this section made by Chapter 259 of the Statutes of 1996 does not constitute a change in, but is declaratory of, existing law.

SEC. 21. Section 25205.6 of the Health and Safety Code is amended to read:

25205.6. (a) On or before November 1 of each year, the department shall provide the board with a schedule of two digit SIC codes, as defined in subdivision (p) of Section 25501, as established by the United States Department of Commerce, that consists of the types of corporations that use, generate, store, or conduct activities in this state related to hazardous materials, as defined in subdivision (k) of Section 25501, including, but not limited to, hazardous waste.

(b) Each corporation of a type identified in the schedule adopted pursuant to subdivision (a) shall pay an annual fee, which shall be set at two hundred dollars ($200) for those corporations with 50 or more employees, but less than 75 employees, three hundred fifty dollars ($350) for those corporations with 75 or more employees, but less than 100 employees, seven hundred dollars ($700) for those corporations with 100 or more employees, but less than 250 employees, one thousand five hundred dollars ($1,500) dollars for those corporations with 250 or more employees, but less than 500 employees, two thousand eight hundred dollars ($2,800) for those corporations with 500 or more employees, but less than 1,000 employees, and nine thousand five hundred dollars ($9,500) for those corporations with 1,000 or more employees.

(c) The fee imposed pursuant to this section shall be paid by each corporation that is identified in the schedule adopted pursuant to subdivision (a) in accordance with Part 22 (commencing with Section 43001) of Division 2 of the Revenue and Taxation Code and shall be deposited in the Toxic Substances Control Account. The revenues shall be available, upon appropriation by the Legislature, for the purposes specified in subdivision (b) of Section 25173.6.

(d) For purposes of this section, the number of employees employed by a corporation is the number of persons employed in this state for more than 500 hours during the calendar year preceding the calendar year in which the fee is due.

(e) The fee rates specified in subdivision (b) are the rates for the 1998 calendar year. Beginning with the 1999 calendar year, and for each year thereafter, the board shall adjust the rates annually to reflect increases or decreases in the cost of living during the prior fiscal year, as measured by the Consumer Price Index issued by the Department of Industrial Relations or by a successor agency.

(f) Pursuant to paragraph (3) of subsection (c) of Section 104 of the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sec. 9404(c)(3)), the state is obligated, as authorized by paragraph (2) of subdivision (a) of Section 25351, to pay specified costs of removal and remedial actions carried out pursuant to the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sec. 9601, et seq.). The fee rates specified in subdivision (b) are intended to provide sufficient revenues to fund the purposes of subdivision (b) of Section 25173.6, including appropriations in any given fiscal year of three million three hundred thousand dollars ($3,300,000) to fund the state's obligation pursuant to paragraph (3) of subsection (c) of Section 104 of the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sec. 9404(c)(3)). If the department determines that the state's obligation under paragraph (3) of subsection (c) of Section 104 of the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sec. 9404(c)(3)) will exceed three million three hundred thousand dollars ($3,300,000) in any fiscal year, the department shall report that determination to the Legislature in the Governor's Budget. If, as part of the Budget Act deliberations, the Legislature concurs with the department's determination, the Legislature shall specify in the annual Budget Act those pro rata changes to the fee rates specified in subdivision (b) that will increase revenues in the next calendar year as necessary to fund the state's increased obligations. However, the Legislature shall not specify fee rates in the annual Budget Act that increase revenues in an amount greater than eight million two hundred thousand dollars ($8,200,000) above the revenues provided by the fee rates specified in subdivision (b). Any changes in the fee rates approved by the Legislature in the annual Budget Act pursuant to this subdivision shall have effect only on the fee payment that is due and payable by the end of February in the fiscal year for which that annual Budget Act is enacted.

(g) This section does not apply to nonprofit corporations primarily engaged in the provision of residential social and personal care for children, the aged, and special categories of persons with some limits on their ability for self-care, as described in SIC Code 8361 of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 Edition.

SEC. 22. Section 25205.7 of the Health and Safety Code is amended to read:

25205.7. (a) (1) Except as otherwise provided in this section, any person who applies for, or requests, one of the following shall enter into a written agreement with the department pursuant to which that person shall reimburse the department, pursuant to Article 9.2 (commencing with Section 25206.1), for the costs incurred

by the department in processing the application or responding to the request:

(A) A new hazardous waste facilities permit, including a standardized permit.

(B) A hazardous waste facilities permit for postclosure.

(C) A renewal of an existing hazardous waste facilities permit, including a standardized permit or postclosure permit.

(D) A class 2 or class 3 modification of an existing hazardous waste facilities permit or grant of interim status, including a standardized permit or grant of interim status or a postclosure permit.

(E) A variance.

(F) A waste classification determination.

(2) Any agreement required pursuant to paragraph (1) may provide for some, or all, of the reimbursement to be made in advance of the processing of the application or the response to the request.

(3) This subdivision does not apply to any application or request submitted to the department prior to July 1, 1998. Any person who submitted such an application or request shall pay the applicable fee, if not already paid, for the application or request as required by this chapter as it read prior to January 1, 1998, unless the department and the applicant or requester mutually agree to enter into a reimbursement agreement in lieu of any unpaid portion of the required fee.

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

(c) Any reimbursements received pursuant to this section shall be placed in the Hazardous Waste Control Account for appropriation in accordance with Section 25174.

(d) (1) In lieu of entering into a reimbursement agreement with the department pursuant to subdivision (a), any person who applies for a new permit, a permit for postclosure, a renewal of an existing permit, or a class 2 or class 3 permit modification may instead elect to pay a fee as follows:

(A) A person submitting a hazardous waste facilities permit application for a land disposal facility shall pay one hundred four thousand one hundred eighty-seven dollars ($104,187) for a small facility, two hundred twenty-two thousand one hundred eighty-three dollars ($222,183) for a medium facility, and three hundred eighty-one thousand six hundred two dollars ($381,602) for a large facility.

(B) A person submitting a hazardous waste facilities permit application for any incinerator shall pay sixty-two thousand seven hundred sixty-two dollars ($62,762) for a small facility, one hundred thirty-three thousand sixty dollars ($133,060) for a medium facility,

and two hundred twenty-eight thousand four hundred fifty-eight dollars ($228,458) for a large facility.

(C) Except as provided in subparagraph (D), a person submitting a hazardous waste facility permit application for a storage facility, a treatment facility, or a storage and treatment facility shall pay twenty-one thousand three hundred forty dollars ($21,340) for a small facility, thirty-eight thousand nine hundred thirteen dollars ($38,913) for a medium facility, and seventy-five thousand three hundred seventeen dollars ($75,317) for a large facility.

(D) A person submitting an application for a standardized permit for a storage facility, a treatment facility, or a storage and treatment facility, as specified in Section 25201.6, shall pay thirty-two thousand fifty-two dollars ($32,052) for a Series A standardized permit, twenty thousand eleven dollars ($20,011) for a Series B standardized permit, and five thousand three hundred thirty-two dollars ($5,332) for a Series C standardized permit. The board shall assess the fees specified in this subparagraph, in accordance with paragraph (2), based upon the classifications specified in subdivision (a) of Section 25201.6 at the facility pursuant to that corrective action program.

(E) (i) A person submitting a hazardous waste facilities permit application for a transportable treatment unit shall pay sixteen thousand three hundred twenty dollars ($16,320) for a small unit, thirty-seven thousand six hundred fifty-seven dollars ($37,657) for a medium unit, and seventy-five thousand three hundred seventeen dollars ($75,317) for a large unit.

(ii) Notwithstanding clause (i), the fee for any application for a new permit, permit modification, or permit renewal for a transportable treatment unit, that was pending before the department as of January 1, 1996, shall be determined according to the type of permit authorizing operation of that unit, as provided by subdivision (d) of Section 25200.2 or the regulations adopted pursuant to subdivision (a) of Section 25200.2. Any standardized permit issued to the operator of a transportable treatment unit after January 1, 1996, that succeeds a full hazardous waste facilities permit issued by the department prior to January 1, 1996, in accordance with subdivision (d) of Section 25200.2 or the regulations adopted pursuant to subdivision (a) of Section 25200.2, shall not be considered to be a new hazardous waste facilities permit.

(F) A person submitting a hazardous waste facilities permit application for a postclosure permit shall pay a fee of ten thousand forty dollars ($10,040) for a small facility, twenty-two thousand five hundred ninety-six dollars ($22,596) for a medium facility, and thirty-seven thousand six hundred fifty-seven dollars ($37,657) for a large facility.

(G) A person submitting an application for one or more class 2 permit modifications, including a class 2 modification to a standardized permit, shall pay a fee equal to 20 percent of the fee for a new permit for that facility for each unit directly impacted by the

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

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

(I) A person who submits an application for renewal of any existing permit shall pay an amount equal to the fee that would have been assessed had the person requested the same changes in a modification application, but not less than one-half the fee required for a new permit.

(J) A person who submits a single application for a facility that falls within more than one fee category shall pay only the higher fee.

(2) The fees required by paragraph (1) shall be assessed by the board upon application to the department. For a facility operating pursuant to a grant of interim status, the submittal of the application shall be the submittal of the Part B application in accordance with regulations adopted by the department. The fee shall be nonrefundable, even if the application is withdrawn or denied. The department shall provide the board with any information that is necessary to assess fees pursuant to this section. The fee shall be collected in accordance with Part 22 (commencing with Section 43001) of Division 2 of the Revenue and Taxation Code, and deposited into the Hazardous Waste Control Account.

(3) The amounts stated in this subdivision are the base rates for the 1997 calendar year. Thereafter, the fees shall be adjusted annually by the board to reflect increases or decreases in the cost of living, during the prior fiscal year, as measured by the Consumer Price Index issued by the Department of Industrial Relations, or a successor agency.

(4) Except as provided in paragraph (5), for purposes of this section, and notwithstanding Section 25205.1, any facility or unit is "small" if it manages 0.5 tons (1,000 pounds) or less of hazardous waste during any one month of the state's current fiscal year, "medium" if it manages more than 0.5 tons (1,000 pounds), but less than 1,000 tons, of hazardous waste during any one month of the state's current fiscal year, and "large" if it manages 1,000 or more tons of hazardous waste during any one month of the state's current fiscal year.

(5) For purposes of subparagraph (F) of paragraph (1) of this subdivision and paragraph (8) of subdivision (c) of Section 25205.4, any facility or unit is "small" if 0.5 tons (1,000 pounds) or less of hazardous waste remain after closure, "medium" if more than 0.5 tons (1,000 pounds), but less than 1,000 tons of hazardous waste remain after closure, and "large" if 1,000 or more tons of hazardous waste remain after closure.

(e) Subdivision (a) does not apply to any variance granted pursuant to Article 4 (commencing with Section 66263.40) of Chapter 13 of Division 4.5 of Title 22 of the California Code of Regulations.

(f) Subdivisions (a) and (d) do not apply to a permit modification resulting from a revision of a facility's or operator's closure plan if the facility is exempted from fees pursuant to subdivision (e) of Section 25205.3, or if the operator is subject to paragraph (2) or (3) of subdivision (d) of Section 25205.2.

(g) (1) Except as provided in paragraphs (3) and (4), subdivisions (a) and (d) do not apply to any permit or variance to operate a research, development, and demonstration facility, if the duration of the permit or variance is not longer than one year, unless the permit or variance is renewed pursuant to the regulations adopted by the department.

(2) For purposes of this section, a "research, development, and demonstration facility" is a facility which proposes to utilize an innovative and experimental hazardous waste treatment technology or process for which regulations prescribing permit standards have not been adopted.

(3) The exemption provided by this subdivision does not apply to a facility which operates as a medium or large multiuser offsite commercial hazardous waste facility and which does not otherwise possess a hazardous waste facilities permit pursuant to Section 25200.

(4) The fee exemption authorized pursuant to paragraph (1) shall be effective for a total duration of not more than two years.

(h) Subdivisions (a) and (d) do not apply to any of the following:

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

(2) A permanent household hazardous waste collection facility.

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

(i) Notwithstanding subdivisions (a) and (b), the department shall not assess any fees or seek any reimbursement for the department's costs in reviewing and overseeing any preliminary site assessment in conjunction with a hazardous waste facilities permit application.

(j) The changes made in this section by the act adding this subdivision do not require amendment of, or otherwise affect, any agreement entered into prior to July 1, 1998, pursuant to which any person has agreed to reimburse the department for the costs incurred by the department in processing applications, responding to requests, or otherwise providing other services pursuant to this chapter.

SEC. 23. Section 25205.8 of the Health and Safety Code is repealed.

SEC. 24. Section 25205.9 of the Health and Safety Code is repealed.

SEC. 25. Section 25205.12 of the Health and Safety Code is amended to read:

25205.12. (a) The owner of a hazardous waste facility authorized to operate pursuant to a permit-by-rule, authorized under a grant of conditional authorization pursuant to Section 25200.3, exempted pursuant to subdivision (a) or (c) of Section 25201.5, or exempted pursuant to Section 25144.6 or 25201.14 is exempt from the facility fee specified in Section 25205.2 for any activities authorized by the permit-by-rule, under a grant of conditional authorization pursuant to Section 25200.3, exempted pursuant to subdivision (a) or (c) of Section 25201.5, or exempted pursuant to Section 25144.6 or 25201.14 at that facility for any year or reporting period during which the facility is operating.

(b) The retroactive portion of the facility fee exemption provided by subdivision (a) does not apply to any facility that was authorized by the department to operate on or before June 1, 1991, for any fees paid or billed prior to September 1, 1992.

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

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

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

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

SEC. 26. Section 25205.14 of the Health and Safety Code is amended to read:

25205.14. (a) Except as provided in Section 25404.5, the owner or operator of a facility or transportable treatment unit operating pursuant to a permit-by-rule shall pay a fee to the board per facility or transportable treatment unit for each reporting period, or portion thereof. The fee for the 1997 reporting period shall be nine hundred fifty-eight dollars ($958). Until July 1, 1998, the owner or operator of a facility or transportable treatment unit operating pursuant to a permit-by-rule shall also pay a fee in the amount of 50 percent of the fee specified in this subdivision for each modification of the notification required by Sections 67450.2 and 67450.3 of Title 22 of the California Code of Regulations, as those sections read on January 1, 1995, or as those sections may subsequently be amended. Thereafter, the fee shall be adjusted annually by the board to reflect increases and decreases in the cost of living, as measured by the Consumer Price Index issued by the Department of Industrial Relations or a successor agency. The reporting period shall begin January 1 of each calendar year. On or before January 31 of each calendar year, the department shall notify the board of all known owners or operators operating pursuant to a permit-by-rule who are not exempted from this fee pursuant to Section 25404.5. The department shall also notify the board of any owner or operator authorized to operate pursuant to a permit-by-rule, who is not exempted from this fee pursuant to Section 25404.5, within 60 days after the owner or operator is authorized.

(b) Except as provided in Section 25404.5, a generator operating under a grant of conditional authorization pursuant to Section 25200.3 shall pay a fee to the board per facility for each reporting period, or portion thereof, unless the generator is subject to a fee under a permit-by-rule. The fee for the 1997 reporting period shall be nine hundred fifty-eight dollars ($958). Thereafter, the fee shall be adjusted annually by the board to reflect increases and decreases in the cost of living, during the prior fiscal year, as measured by the Consumer Price Index issued by the Department of Industrial Relations or a successor agency. The reporting period shall begin January 1 of each calendar year. On or before January 31 of each calendar year, the department shall notify the board of all known generators operating pursuant to a grant of conditional authorization under Section 25200.3 who are not exempted from this fee pursuant to Section 25404.5. The department shall also notify the board of any

generator authorized to operate under a grant of conditional authorization, who is not exempted from this fee pursuant to Section 25404.5, within 60 days of the receipt of notification.

(c) Except as provided in Section 25404.5, a generator performing treatment conditionally exempted pursuant to Section 25144.6 or subdivision (a) or (c) of Section 25201.5 shall pay thirty-eight dollars ($38) to the board per facility for each reporting period, unless that generator is subject to a fee under a permit-by-rule or a conditional authorization pursuant to Section 25200.3. Until July 1, 1998, a generator performing treatment conditionally exempted pursuant to Section 25144.6 or subdivision (a) or (c) of Section 25201.5 shall pay one hundred dollars ($100) to the board per facility for the initial operating period, or portion thereof, unless that generator is subject to a fee under a permit-by-rule or a conditional authorization pursuant to Section 25200.3. The reporting period shall begin January 1 of each calendar year. On or before January 31 of each calendar year, the department shall notify the board of all known facilities performing treatment conditionally exempted by Section 25144.6 or subdivision (a) or (c) of Section 25201.5 who are not exempted from this fee pursuant to Section 25404.5. The department shall also notify the board of any generator who notifies the department that the generator is conducting a conditionally exempt treatment operation, and who is not exempted from this fee pursuant to Section 25404.5, within 60 days of the receipt of the notification.

(d) The fees imposed pursuant to this section shall be paid in accordance with Part 22 (commencing with Section 43001) of Division 2 of the Revenue and Taxation Code.

SEC. 27. Section 25205.15 of the Health and Safety Code is amended to read:

25205.15. (a) Except for the first four manifests used in a calendar year by a business with less than 100 employees, and except as provided in subdivision (b), the department shall impose a fee of twelve dollars ($12) for each California Uniform Hazardous Waste Manifest form used on or before June 30, 1998, by any person in the following manner:

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

(2) On and after the 1992 calendar year, for all manifests used on or before June 30, 1998, the manifest fee shall be assessed on all manifests used in the calendar year ending prior to the start of the fiscal year in which the billing occurs.

(b) The manifest fee for any manifest that is used on or before June 30, 1998, solely for wastes that are to be recycled is six dollars ($6) and the total amount of manifest fees paid in a calendar year for these manifests shall not exceed five thousand dollars ($5,000) for each hazardous waste identification number issued either by the department or the Environmental Protection Agency.

(c) On and after June 30, 1998, in addition to any fees to cover printing and distribution costs, the department shall impose a manifest fee of seven dollars and fifty cents ($7.50) for each California Hazardous Waste Manifest form used after June 30, 1998, by any person, in the following manner:

(1) Except as provided in paragraph (2), on and after July 1, 1998, the department shall bill generators for each California Uniform Hazardous Waste Manifest form, manifest number, or electronic equivalent used after June 30, 1998. The billing frequency specified by the department may range from monthly to quarterly, with the payment by the generator required within 30 days from the date of receipt of the billing, and shall be determined based on consultation with the regulated community. In preparing the bills, the department shall distinguish between manifests used solely for recycled hazardous wastes and those used for nonrecycled hazardous wastes.

(2) On July 1, 2000, the department shall determine if revenues from the manifest fee as collected pursuant to paragraph (1) will equal or exceed one million seven hundred thousand dollars ($1,700,000) for the 1999–2000 fiscal year. If the department determines that the manifest fee revenues will not equal or exceed one million seven hundred thousand dollars ($1,700,000) for the 1999–2000 fiscal year, the manifest fee shall instead, commencing July 1, 2000, be collected at the time of original sale of the manifest or distribution of manifest numbers or electronic equivalent to users by the department for all manifests that will be used after June 30, 1998.

(3) The manifest fee shall not be collected on the use of California Hazardous Waste Recycling Manifests that are used solely for hazardous wastes that are recycled.

(4) On or before June 30, 1998, the department shall implement a system for the use of manifests that, after that date, distinguishes between recycling manifests used solely for hazardous wastes that are to be recycled and general manifests that may be used for transporting waste for any purpose.

(5) If a person uses a recycling manifest that is designated for recycled hazardous wastes for other types of hazardous waste, the person shall pay the manifest fee provided for in this subdivision and an additional error correction fee of twenty dollars ($20) per manifest, as required pursuant to Section 25160.5. However, the department shall provide the manifest user with a reasonable opportunity to notify the department of any incorrect use of the recycling manifest and provide the department with the appropriate manifest fee payment without additional fines, penalties, or payment of the error correction fee.

(6) The department may adopt regulations to implement and administer the manifest fee system imposed pursuant to this subdivision.

(d) (1) The department shall expend the sum of one million dollars ($1,000,000) from the manifest fees deposited in the Hazardous Waste Control Account, upon appropriation by the Legislature in the annual Budget Act, to cover the one-time costs of implementing changes to the hazardous waste manifest tracking system during the 1998–99 fiscal year.

(2) On and after July 1, 1999, commencing with 1999–2000 fiscal year and annually thereafter, the department shall expend, upon appropriation by the Legislature in the annual Budget Act, not less than one million fifty thousand dollars ($1,050,000) from the manifest fees, deposited in the Hazardous Waste Control Account, to establish a program to encourage hazardous waste generators to implement pollution prevention measures. The program shall be administered pursuant to administrative and expenditure criteria to be established by the Legislature.

(e) The manifest fees shall be deposited in the Hazardous Waste Control Account and be available for expenditure, upon appropriation by the Legislature.

SEC. 28. Section 25205.16 of the Health and Safety Code is amended to read:

25205.16. (a) (1) The department may impose an annual verification fee upon all generators, transporters, and facility operators with 50 or more employees that possess a valid identification number issued either by the department or by the Environmental Protection Agency. The fee charged shall be one hundred fifty dollars ($150) for each generator, transporter, and facility operator with 50 or more employees, but less than 75 employees; one hundred seventy-five dollars ($175) for each generator, transporter, and facility operator with 75 or more employees, but less than 100 employees; two hundred dollars ($200) for each generator, transporter, and facility operator with 100 or more employees, but less than 250 employees; two hundred twenty-five dollars ($225) for each generator, transporter, and facility operator with 250 or more employees, but less than 500 employees; two hundred fifty dollars ($250) for each generator, transporter, and facility operator with 500 or more employees. However, no generator, transporter, or facility operator shall be assessed fees pursuant to this section that exceed, in total, five thousand dollars ($5,000).

(2) The generator, transporter, or facility operator subject to the fee shall submit payment of the fee within 30 days from the date of receiving a notice of assessment from the department. The notice shall be sent once during each fiscal year to each holder of a valid identification number. The fee imposed by this section shall be deposited in the Hazardous Waste Control Account and be available for expenditure, upon appropriation by the Legislature. For purposes of this section, “employee” shall have the same meaning set forth in Section 25205.6.

(b) The department shall establish an identification number certification system to biennially verify the accuracy of information related to generators, transporters, and facilities authorized to treat, store, or dispose of hazardous waste. However, if the number of identification numbers issued since the previous certification exceeds 20 percent of the active identification numbers, the department may implement an annual certification. The system shall include only verification of all of the following information:

(1) The name, mailing address, facsimile number, fictitious business name, federal employer number, State Board of Equalization identification number, SIC code, and phone number of the firm or organization engaged in hazardous waste activities.

(2) The name, mailing address, facsimile number, and phone number of the owner of the firm or organization.

(3) The name, title, mailing address, facsimile number, and phone number of a contact person for the firm or organization.

(4) The identification number assigned to the firm or organization.

(5) The site location address or description associated with the firm or organization's identification number provided in paragraph (4).

(6) The number of employees of the firm or organization.

(7) If the firm or organization is a generator, a statement of whether the generator produces RCRA hazardous waste or non-RCRA hazardous waste.

(8) An identification of any of the following hazardous waste activities in which the firm or organization is engaged:

(A) Generation.

(B) Transportation.

(C) Onsite treatment, storage, or disposal.

(9) The waste codes associated with the four largest hazardous waste streams, by volume, of the firm or organization. The federal waste code shall be verified for RCRA hazardous waste and the California waste code shall be verified for non-RCRA hazardous waste.

(c) Any generator, transporter, and facility operator who fails to comply with this section, or who fails to provide information required by the department to verify the accuracy of hazardous waste activity data, shall be subject to suspension of any and all identification numbers assigned to the generator, transporter, or facility operator.

SEC. 29. Section 25205.18 of the Health and Safety Code is amended to read:

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

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

(c) (1) The department may require the facility to submit an application to modify its permit to provide for an allowable capacity.

(2) Subdivisions (a) and (d) of Section 25205.7 do not apply to an application for modification required by the department pursuant to this subdivision.

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

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

SEC. 30. Section 25205.19 of the Health and Safety Code is amended to read:

25205.19. (a) If a facility has a permit or an interim status document which sets forth the facility's type, pursuant to Section 25205.1, as either treatment, storage, or disposal, the facility's type for purposes of the annual facility fee shall be rebuttably presumed to be what is set forth in that permit or document.

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

(c) (1) If the facility's permit or interim status document does not set forth its type, the department may require the facility to submit an application to modify the permit or interim status document to provide for a facility type.

(2) Subdivisions (a) and (d) of Section 25205.7 do not apply to an application for modification pursuant to this subdivision.

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

SEC. 31. Article 9.2 (commencing with Section 25206.1) is added to Chapter 6.5 of Division 20 of the Health and Safety Code, to read:

Article 9.2. Cost Reimbursement

25206.1. For purposes of this article, the following terms have the following meaning:

(a) "Direct costs" means the costs to the department of processing applications, responding to requests, or providing other services, for which the applicant or requester is required to reimburse the department pursuant to those provisions specified in Section 25206.2, that can be specifically attributed to a particular cost objective, including, but not limited to, sites, facilities, and activities.

(b) "Indirect costs" means the costs to the department of activity that is of a common or joint purpose benefiting more than one cost objective and not readily assignable to a single cost objective.

(c) "Pro rata" means the general administrative costs expended by central service agencies to provide centralized services to state agencies, as defined in the State Administrative Manual.

25206.2. (a) Except as provided in subdivision (c), the department shall comply with this article when recovering costs for processing applications, responding to requests, or providing other services, for which the applicant or requester is required to reimburse the department for its costs pursuant to Sections 25149.3, 25179.7, 25200.1.5, 25201.9, 25205.7, 25222.1, 25233, and 25234. For purposes of this article and Sections 25149.3, 25179.7, 25200.1.5, 25201.9, 25205.7, 25222.1, 25233, and 25234, the department's costs include direct costs, indirect costs, and pro rata costs, as defined in Section 25206.1.

(b) For the purposes of recovering the department's costs pursuant to those provisions listed in subdivision (a), the department shall establish and implement policies and procedures that include, but are not limited to, all of the following:

(1) Within 14 days following receipt of an application or request for which charges are to be assessed, or a later date as may be mutually agreed upon, the department and the applicant or requester shall hold a project planning meeting. Within 30 days from the date of the planning meeting, or within 30 days from the date that a complete application or request is received by the department, whichever is later, or by a later date mutually agreed upon, the department shall provide the applicant or requester an estimate that includes all of the following information:

(A) A detailed description of the work to be performed or services to be provided.

(B) The estimated billing rates for all classes of employees expected to work on the project. The department may adjust its billing rates not more than once every six months. Any adjustment in billing rates or other charges, including, but not limited to, pro rata costs and indirect costs, shall operate prospectively.

(C) An estimate of all expected charges to be billed to the applicant or requester, to the extent that the department can project

its time and costs in advance. The department may adjust this estimate subsequent to commencement of the project based on analysis of new information that supports the adjustment, including, but not limited to, such circumstances as a change in the scope of the original work, additional work that is needed to ensure protection of human health or safety or of the environment, or other circumstances that arise that require substantially more time and effort than was originally anticipated to complete the work. An adjustment may only be made after providing written notice and a detailed explanation of the change to the applicant or requester.

(2) The department shall adopt a billing system and procedures that include, but are not limited to, all of the following:

(A) Billing rate and indirect cost rate schedules by employee job classification.

(B) Standardized work task descriptions.

(C) Issuance of invoices at least quarterly, and to the extent practicable, within 60 days from the date of completion of work for which the charge is assessed.

(D) The inclusion of sufficient detail with each invoice so that the applicant or requester can relate the items on the invoice to the benefits received and to the estimate or charges provided pursuant to subparagraph (C) of paragraph (1). Invoices shall be supplemented with statements of any changes in rates and a detailed justification for any such changes.

(E) Upon request and within a reasonable time, not to exceed 30 working days to the extent practicable, providing the applicant or requester with access to time records and other materials supporting the invoice.

(F) The review of invoices for accuracy and appropriateness by a member of the department staff who has direct knowledge of the work or service performed.

(G) The mailing of invoices to the contact person identified by the applicant or requester.

(H) The development of policies and procedures for resolving disputes regarding charges billed pursuant to this section. The department shall ensure that the party responsible for resolving a dispute is not also responsible for, or performing, the work for which the charges are assessed. A person disputing an invoice shall notify the department in writing of the dispute and the reasons for the dispute within 45 days from the date of the invoice.

(I) The development of a concise statement of its cost reimbursement policies and billing procedures, and making those policies and procedures, the dispute resolution policies and procedures, and other program guidance and policies readily available to any person requesting them.

(c) This article does not require amendment of, or otherwise affect, any agreement entered into prior to July 1, 1998, pursuant to which any person has agreed to reimburse the department for the

costs incurred by the department in processing applications, responding to requests, or otherwise providing other services pursuant to those provisions listed in subdivision (a).

25206.3. The department shall take all of the following actions with regard to the tracking of indirect costs:

(a) Ensure that pro rata costs are allocated appropriately to all departmental activities, so that the department's program will only bear those pro rata costs in proportion to the benefits received by those persons subject to the reimbursement requirements specified in Section 25206.2.

(b) Routinely include operating expenses in the indirect costs and allocate those expenses using processes that ensure that the department's program only bears indirect costs in proportion to the benefits received by those persons subject to the reimbursement requirements specified in Section 25206.2.

(c) Exclude from indirect costs, the costs of grant development and administration, fee administration, contract development and administration, and public and governmental inquiries.

25206.4. The department shall establish rates for indirect costs that are specific to each program and shall review and update the indirect cost rates based upon increases or decreases in the amounts of grants received by the department, department reorganizations, and other relevant factors, but not less than once every six months, based upon the previous 12 months of expenditure data. The department shall apply the indirect cost rates prospectively and shall not make retroactive adjustments in those rates.

SEC. 32. Section 25207.12 of the Health and Safety Code is amended to read:

25207.12. (a) Any eligible participant who submits banned, unregistered, or outdated agricultural wastes for collection in a program established pursuant to this article is exempt from the fees and reimbursements required by Sections 25174.1, 25205.2, 25205.5, and 25205.7, with regard to the wastes submitted for collection.

(b) An eligible participant who submits banned, unregistered, or outdated agricultural wastes for collection is exempt from the hazardous waste facilities permit requirements of Section 25201 with regard to the management of the wastes submitted for collection.

(c) A county operating a collection program in compliance with this article shall not be held liable in any cost recovery action brought pursuant to Section 25360 for any hazardous waste which has been properly handled and transported to an authorized hazardous waste treatment or disposal facility, in compliance with this chapter, at a location other than that of the collection program.

SEC. 33. Section 25209.7 of the Health and Safety Code is amended to read:

25209.7. (a) Every owner or operator of a land treatment unit subject to this article shall pay an annual fee to the department which shall be equivalent to 2 percent of the land disposal fee due under

Section 25205.4. This fee shall be in addition to the annual hazardous waste facility fee and shall be due at the same time as the facility fee.

(b) The department may, by regulation, increase or decrease the amount of the fees specified in subdivision (a) if the department finds that the amounts charged do not reflect the cost of providing services under this article.

SEC. 34. Section 25221 of the Health and Safety Code is amended to read:

25221. (a) Any person as owner, lessor, or lessee who (1) knows, or has probable cause to believe, that a significant disposal of hazardous waste has occurred on, under, or into the land which he or she owns or leases or that the land is within 2,000 feet of a significant disposal of hazardous waste, and (2) intends to construct or allow the construction on that land of a building or structure to be used for a purpose which is described in subdivision (b) of Section 25232 within one year, shall apply to the department prior to construction for a determination as to whether the land should be designated a hazardous waste property or a border zone property pursuant to Section 25229.

The addition of rooms or living space to an existing single-family dwelling or other minor repairs or improvements to residential property which do not change the use of the property or increase the population density does not constitute the construction of a building or structure for purposes of this subdivision.

(b) Any person who, as owner, lessor, or lessee, knows or has probable cause to believe that land which he or she owns or leases is a hazardous waste property or a border zone property, may apply to the department for a determination as to whether the land should be designated a hazardous waste property or a border zone property pursuant to Section 25229.

(c) If a city or county knows or has probable cause to believe that any land within its jurisdiction is a hazardous waste property or a border zone property, the city or county may apply to the department for a determination as to whether that land should be designated a hazardous waste property or a border zone property pursuant to Section 25229.

(d) Subdivisions (a), (b), and (c) do not apply to any land on which a determination has previously been made pursuant to Section 25222.1 or 25229, unless either of the following has occurred since that determination:

(1) A significant new disposal of hazardous waste has occurred on, under, or into the land.

(2) Significant new information about past disposal of hazardous waste on, or within 2,000 feet of, the land becomes known to the owner, lessor, or lessee of the land or to the city or county.

SEC. 35. Section 25324 of the Health and Safety Code is amended to read:

25324. “State account” means the Toxic Substances Control Account established pursuant to Section 25173.6, except that in Section 25334 and Article 7.5 (commencing with Section 25385), “state account” means the Hazardous Substance Account established pursuant to Section 25330. Notwithstanding any other provision of this section, any costs incurred and payable from the Hazardous Substance Account, the Hazardous Waste Control Account, or the Site Remediation Account prior to July 1, 1998, to implement the provisions of this chapter or Chapter 6.85 (commencing with Section 25396), shall be recoverable from the liable person or persons pursuant to Section 25360 as if the costs were incurred and payable from the state account.

SEC. 36. Section 25330 of the Health and Safety Code is amended to read:

25330. There is in the General Fund the Hazardous Substance Account which shall be administered by the director. In addition to any other money appropriated by the Legislature to the Hazardous Substance Account, the following amounts shall be deposited in the Hazardous Substance Account:

(a) Any interest earned on money deposited in the Hazardous Substance Account.

(b) Any money transferred from the state account pursuant to Section 25173.6 or 25336.

SEC. 36.5. 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 the subaccount for those removal or remedial actions are hereby continuously appropriated to the department for removal or remedial action at the specific site, and for administrative costs associated with the removal or remedial action at the specific site.

(c) Notwithstanding any other provision of law, money in the subaccount for those removal or remedial actions shall not revert to the General Fund or be transferred to any other fund or account in the State Treasury, except for purposes of investment as provided in Article 4 (commencing with Section 16470) of Chapter 3 of Part 2 of Division 4 of Title 2 of the Government Code.

(d) Notwithstanding Section 16305.7 of the Government Code, all interest or other increment resulting from investment of the funds specified in subdivision (a) pursuant to Article 4 (commencing with Section 16470) of Chapter 3 of Part 2 of Division 4 of Title 2 of the Government Code shall be deposited in the subaccount for removal or remedial action at the specific sites.

(e) At the conclusion of all removal or remedial actions at the specific site, any unexpended funds in any subaccounts established pursuant to this section shall be transferred to the subaccount for site operation and maintenance established pursuant to section 25330.5, if necessary, for those activities at the site, or, if not needed for site operation and maintenance at the site, to the Toxic Substances Control Account.

SEC. 37. Section 25336 of the Health and Safety Code is amended to read:

25336. There shall be deposited in the Hazardous Substance Account any money transferred, upon appropriation by the Legislature, from the state account. Those moneys may be expended for repayment of principal of, and interest on, bonds sold pursuant to Article 7.5 (commencing with Section 25385), and for all other purposes for which the Hazardous Substance Account or the state account may be used pursuant to Article 7.5 (commencing with Section 25385).

SEC. 38. Section 25337 of the Health and Safety Code is amended to read:

25337. (a) There is in the General Fund the Site Remediation Account which shall be administered by the director. The Site Remediation Account shall be funded by money transferred from the state account, upon appropriation by the Legislature. Consistent with the requirements of Section 114(c) of the federal act (42 U.S.C. Sec. 9614(c)), the moneys in the Site Remediation Account may be expended by the department, upon appropriation by the Legislature, for direct site remediation costs.

(b) (1) For purposes of this section, "direct site remediation costs" means payments to contractors for investigations, characterizations, removal, remediation, or long-term operation and maintenance at sites contaminated or suspected of contamination by hazardous materials, where those actions are authorized pursuant to this chapter.

(2) "Direct site remediation costs" also means the state-mandated share pursuant to Section 204(c)(3) of the federal act (42 U.S.C. Sec. 9604(c)(3)).

(3) "Direct site remediation costs" does not include the department's administrative expenses or the department's expenses for staff to perform oversight of investigations, characterizations, removals, remediations, or long-term operation and maintenance.

SEC. 39. Section 25340 of the Health and Safety Code is repealed.

SEC. 40. Section 25341 of the Health and Safety Code is repealed.

SEC. 41. Section 25343 of the Health and Safety Code is amended to read:

25343. (a) Except as provided in subdivisions (b) and (c), any potentially responsible party at a site, or any person who has notified the department of that person's intent to undertake removal or remediation at a site, shall reimburse the department, pursuant to

Chapter 6.66 (commencing with Section 25269), for the costs incurred by the department for its oversight of any preliminary endangerment assessment at that site.

(b) This section does not apply to any notice of intent submitted to the department prior to July 1, 1998. Any person who submitted such a notice shall pay the fee, if not already paid, as required by this section as it read on December 31, 1997, unless the department and that person mutually agree to enter into a reimbursement agreement in lieu of any unpaid portion of the required fee.

(c) The changes made in this section by the act adding this subdivision do not require amendment of, or otherwise affect, any agreement entered into prior to July 1, 1998, pursuant to which any person has agreed to reimburse the department for the costs incurred by the department for its oversight of a preliminary endangerment assessment.

SEC. 42. Section 25345 of the Health and Safety Code is repealed.

SEC. 43. Section 25351 of the Health and Safety Code is repealed.

SEC. 44. Section 25351.1 of the Health and Safety Code is amended to read:

25351.1. Notwithstanding Section 13340 of the Government Code, there is hereby transferred annually from the Hazardous Substance Account to the Hazardous Substance Clearing Account, and appropriated therefrom, an amount of not more than five million dollars ($5,000,000) which is required to pay the principal of, and interest on, bonds sold pursuant to Article 7.5 (commencing with Section 25385) to the extent that the funds in the Hazardous Substance Clearing Account and the Superfund Bond Trust Fund are insufficient to pay the principal of, and interest on, these bonds.

SEC. 45. Section 25354.5 of the Health and Safety Code is amended to read:

25354.5. (a) Any state or local law enforcement officer or investigator or other law enforcement agency employee who, in the course of an official investigation or enforcement action with regard to any illegal controlled substance manufacturing operation, comes in contact with, or is aware of, the presence at the site of a substance that the person suspects is a hazardous substance, shall notify the department for the purpose of securing a contractor to identify, clean up, store, and dispose of the suspected hazardous substance, as necessary, except for samples required to be kept for evidentiary purposes.

(b) Notwithstanding any other provision of law, for any hazardous substance that is an illegal controlled substance, a precursor of a controlled substance, or a material intended to be used in the unlawful manufacture of controlled substances, upon notice that the hazardous substance requires a removal action, the department shall take removal action with respect to that hazardous substance. The department may expend funds appropriated from the Illegal Drug

Lab Cleanup Account created pursuant to subdivision (e) to pay the costs of removal actions required by this section.

(c) (1) For purposes of Chapter 6.5 (commencing with Section 25100) or this chapter, any person who is found to have operated a site for the purpose of manufacturing an illegal controlled substance or a precursor of an illegal controlled substance is the generator of any hazardous substance at, or released from, the site that is subject to removal action pursuant to this section.

(2) During the removal action, for purposes of complying with the manifest requirements in Section 25160, the department, the county health department, or their designee may sign the hazardous waste manifest as the generator of the hazardous waste. In carrying out that action, the department, the county health department, or their designee shall be considered to have acted in furtherance of their statutory responsibilities to protect the public health and safety and the environment from the release of hazardous substances, and the department, the county health department, or their designee are not responsible parties for the release or threatened release of the hazardous substances.

(3) The officer, investigator, or agency employee specified in subdivision (a) is not a responsible party for the release or threatened release of any hazardous substances at, or released from, the site.

(d) The department may adopt regulations to implement this section in consultation with appropriate law enforcement agencies.

(e) The Illegal Drug Lab Cleanup Account is hereby created in the General Fund and the department may expend any money in the account, upon appropriation by the Legislature, to carry out the removal actions required by this section. The account shall be funded by moneys appropriated directly from the General Fund.

(f) The responsibilities assigned to the department by the act adding this subdivision apply only to the extent that sufficient funding is made available for that purpose.

SEC. 46. Section 25360 of the Health and Safety Code is amended to read:

25360. (a) Any costs incurred and payable from the state account, the Site Remediation Account, or the Hazardous Substance Cleanup Fund shall be recoverable by the Attorney General, upon the request of the department, from the liable person or persons. The amount of any remedial or removal action costs that may be recovered pursuant to this section shall include interest on any amount paid from the Hazardous Substance Cleanup Fund calculated at a rate equal to the interest rate of the bonds sold pursuant to Article 7.5 (commencing with Section 25385) and interest on any amount paid from the state account or the Site Remediation Account, calculated at the rate of return earned on investment in the Surplus Money Investment Fund pursuant to Section 16475 of the Government Code.

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

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

(d) Money recovered by the Attorney General pursuant to this section shall be deposited in the state account, except that, if the costs incurred were paid from the Hazardous Substance Cleanup Fund, the Attorney General shall deposit the amounts recovered into the Hazardous Substance Clearing Account. Money deposited in the Hazardous Substance Clearing Account pursuant to this section are available to pay the principal of, and interest on, bonds sold pursuant to Article 7.5 (commencing with Section 25385).

SEC. 46.5. Section 25395 of the Health and Safety Code is amended to read:

25395. (a) Except as provided in subdivisions (b), (c), and (d), 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.

(b) On January 1, 1999, the Department of Finance shall submit a report to the Secretary of State that states whether the principal of, and interest on, the bonds sold pursuant to Article 7.5 (commencing with Section 25385) have been paid and the General Fund has been reimbursed for any and all amounts that were expended therefrom to pay the principal of, and interest on, those bonds. If the report states that the bonds have not been paid and the General Fund has not been reimbursed, then, notwithstanding subdivision (a), Article 1 (commencing with Section 25300), Article 2 (commencing with Section 25310), Article 3 (commencing with Section 25330), Article 4 (commencing with Section 25340), Article 6 (commencing with Section 25360), Article 7.5 (commencing with Section 25385), and this article, shall not be repealed and shall remain in effect until the date specified in subdivision (c).

(c) If the articles specified in subdivision (b) remain in effect after January 1, 1999, pursuant to subdivision (b), on the date when the principal of, and interest on, the bonds sold pursuant to Article 7.5 (commencing with Section 25385) have been paid and the General Fund has been reimbursed for any and all amounts that were expended therefrom to pay the principal of, and interest on, those bonds, the Department of Finance shall submit a report to the Secretary of State containing that information. The articles specified

in subdivision (b) shall be repealed on the date that the report is submitted.

(d) Section 25364.6 shall not be repealed, except as provided in subdivision (j) of that section.

SEC. 47. Section 25404.5 of the Health and Safety Code is amended to read:

25404.5. (a) (1) Each certified unified program agency shall institute a single fee system, which shall replace the fees levied pursuant to Sections 25201.14 and 25205.14, and which shall also replace any fees levied by a local agency pursuant to Sections 25143.10, 25287, 25513, and 25535.2, or any other fee levied by a local agency specifically to fund the implementation of the provisions specified in subdivision (c) of Section 25404. Notwithstanding Sections 25143.10, 25201.14, 25205.14, 25287, 25513, and 25535.2, a person who complies with the certified unified program agency's "single fee system" fee shall not be required to pay any fee levied pursuant to those sections.

(2) The governing body of the certified unified program agency shall establish the amount to be paid by each person regulated by the unified program under the single fee system at a level sufficient to pay the necessary and reasonable costs incurred by the certified unified program agency and by any participating agency pursuant to the requirements of subparagraph (E) of paragraph (1) of subdivision (d) of Section 25404.3.

(3) The fee system may also be designed to recover the necessary and reasonable costs incurred by the certified unified program agency, or a participating agency pursuant to the requirements of subparagraph (E) of paragraph (1) of subdivision (d) of Section 25404.3, in administering provisions other than those specified in subdivision (c) of Section 25404, if the implementation and enforcement of those provisions has been incorporated as part of the unified program by the certified unified program agency pursuant to subdivision (b) of Section 25404.2, and if the single fee system replaces any fees levied as of January 1, 1994, to fund the implementation of those additional provisions.

(4) The amount to be paid by a person regulated by the unified program may be adjusted to account for the differing costs of administering the unified program with respect to that person's regulated activities.

(b) Except as provided in subdivision (d), the single fee system instituted by each certified unified program agency shall include an assessment on each person regulated by the unified program of a surcharge, the amount of which shall be determined by the secretary annually, to cover the necessary and reasonable costs of the Office of Emergency Services, the State Fire Marshal, and the State Water Resources Control Board in carrying out their responsibilities under this chapter. The secretary may adjust the amount of the surcharge to be collected by different certified unified program agencies to

reflect the different costs incurred by the Office of Emergency Services, the State Fire Marshal, and the State Water Resources Control Board in supervising the implementation of the unified program in different jurisdictions, and in supervising the implementation of the unified program in those jurisdictions for which the secretary has waived the assessment of the surcharge pursuant to subdivision (d). The certified unified program agency may itemize the amount of the surcharge on any bill, invoice, or return which the agency sends to a person regulated by the unified program. Each certified unified program agency shall transmit all surcharge revenues collected to the secretary on a quarterly basis. The surcharge shall be deposited in the Unified Program Account, which is hereby created in the General Fund and which may be expended, upon appropriation by the Legislature, by the Office of Emergency Services, the State Fire Marshal, and the State Water Resources Control Board for the purposes of implementing this chapter.

(c) Each certified unified program agency and the secretary shall, before the institution of the single fee system and the assessment of the surcharge, implement a fee accountability program designed to encourage more efficient and cost-effective operation of the program for which the single fee and surcharge are assessed. The fee accountability programs shall include those elements of the requirements of the plan adopted pursuant to Section 25206 which the secretary determines are appropriate.

(d) The secretary may waive the requirement for a county to assess a surcharge pursuant to subdivision (b), if both of the following conditions apply:

(1) The county meets all of the following conditions:

(A) The county submits an application to the secretary for certification on or before January 1, 1996, that incorporates all of the requirements of this chapter, and includes the county's request for a waiver of the surcharge, and contains documentation that demonstrates, to the satisfaction of the secretary, both of the following:

(i) That the assessment of the surcharge will impose a significant economic burden on most businesses within the county.

(ii) That the combined dollar amount of the surcharge and the single fee system to be assessed by the county pursuant to subdivision (a) exceeds the combined dollar amount of all existing fees that are replaced by the single fee system for most businesses within the county.

(B) The application for certification, including the information required by subparagraph (A), is determined by the secretary to be complete, on or before April 30, 1996. The secretary, for good cause, may grant an extension of that deadline of up to 90 days.

(C) The county is certified by the secretary on or before December 31, 1996.

(D) On or before January 1, 1994, the county completed the consolidation of the administration of the hazardous waste generator program, the hazardous materials release response plans and inventories program, and the underground storage tank program, referenced in paragraphs (1), (3), and (4) of subdivision (c) of Section 25404, into a single program within the county's jurisdiction.

(E) The county demonstrates that it will consolidate the administration of all programs specified in subdivision (c) of Section 25404, and that it will also consolidate the administration of at least one additional program which regulates hazardous waste, hazardous substances, or hazardous materials, as specified in subdivision (d) of Section 25404.2, other than the programs specified in subdivision (c) of Section 25404, into a single program to be administered by a single agency in the county's jurisdiction at the time the county's certification by the secretary becomes effective.

(2) The secretary makes all of the following findings:

(A) The county meets all of the criteria specified in paragraph (1).

(B) The assessment of the surcharge would impose a significant economic burden on most businesses within the county.

(C) The combined dollar amount of the surcharge and the single fee system to be assessed by the county pursuant to subdivision (a) would exceed the combined dollar amount of all existing fees that are replaced by the single fee system for most businesses within the county.

(D) The waiver of the surcharge for those counties applying for and qualifying for a waiver, and the resulting increase in the surcharge for other counties, would not, when considered cumulatively, impose a significant economic burden on businesses in any other county which does not apply for, or does not meet the criteria for, a waiver of the surcharge.

(e) The secretary shall review all of the requests for a waiver of the surcharge made pursuant to subdivision (d) simultaneously, so as to adequately assess the cumulative impact of granting the requested waivers on businesses in those counties that have not applied, or do not qualify, for a waiver, and shall grant or deny all requests for a waiver of the surcharge within 30 days from the date that the secretary certifies all counties applying, and qualifying, for a waiver. If the secretary finds that the grant of a waiver of the surcharge for all counties applying and qualifying for the waiver will impose a significant economic burden on businesses in one or more other counties, the secretary shall take either of the following actions:

(1) Deny all of the applications for a waiver of the surcharge.

(2) Approve only a portion of the waiver requests for counties meeting the criteria set forth in subdivision (d), to the extent that the approved waivers, when taken as a whole, meet the condition specified in subparagraph (D) of paragraph (2) of subdivision (d). In determining which of the counties' waiver requests to grant, the secretary shall consider all of the following factors:

(A) The relative degree to which the assessment of the surcharge will impose a significant economic burden on most businesses within each county applying and qualifying for a waiver.

(B) The relative degree to which the combined dollar amount of the surcharge and the single fee system to be assessed, pursuant to subdivision (a), by each county applying and qualifying for a waiver exceeds the combined dollar amount of all existing fees which are replaced by the single fee system for most businesses within the county.

(C) The relative extent to which each county applying and qualifying for a waiver has incorporated, or will incorporate, upon certification, additional programs pursuant to subdivision (d) of Section 25404.2, into the unified program within the county's jurisdiction.

(f) The secretary may, at any time, terminate a county's waiver of the surcharge granted pursuant to subdivisions (d) and (e) if the secretary determines that the criteria specified in subdivision (d) for the grant of a waiver are no longer met.

SEC. 47.5. Section 25404.5 of the Health and Safety Code is amended to read:

25404.5. (a) (1) Each certified unified program agency shall institute a single fee system, which shall replace the fees levied pursuant to Sections 25201.14 and 25205.14, except for transportable treatment units permitted under Section 25200.2, and which shall also replace any fees levied by a local agency pursuant to Sections 25143.10, 25287, 25513, and 25535.2, or any other fee levied by a local agency specifically to fund the implementation of the provisions specified in subdivision (c) of Section 25404. Notwithstanding Sections 25143.10, 25201.14, 25205.14, 25287, 25513, and 25535.2, a person who complies with the certified unified program agency's "single fee system" fee shall not be required to pay any fee levied pursuant to those sections, except for transportable treatment units permitted under Section 25200.2.

(2) The governing body of the certified unified program agency shall establish the amount to be paid by each person regulated by the unified program under the single fee system at a level sufficient to pay the necessary and reasonable costs incurred by the certified unified program agency and by any participating agency pursuant to the requirements of subparagraph (E) of paragraph (1) of subdivision (d) of Section 25404.3.

(3) The fee system may also be designed to recover the necessary and reasonable costs incurred by the certified unified program agency, or a participating agency pursuant to the requirements of subparagraph (E) of paragraph (1) of subdivision (d) of Section 25404.3, in administering provisions other than those specified in subdivision (c) of Section 25404, if the implementation and enforcement of those provisions has been incorporated as part of the unified program by the certified unified program agency pursuant

to subdivision (b) of Section 25404.2, and if the single fee system replaces any fees levied as of January 1, 1994, to fund the implementation of those additional provisions.

(4) The amount to be paid by a person regulated by the unified program may be adjusted to account for the differing costs of administering the unified program with respect to that person's regulated activities.

(b) Except as provided in subdivision (d), the single fee system instituted by each certified unified program agency shall include an assessment on each person regulated by the unified program of a surcharge, the amount of which shall be determined by the secretary annually, to cover the necessary and reasonable costs of the Office of Emergency Services, the State Fire Marshal, and the State Water Resources Control Board in carrying out their responsibilities under this chapter. The secretary may adjust the amount of the surcharge to be collected by different certified unified program agencies to reflect the different costs incurred by the Office of Emergency Services, the State Fire Marshal, and the State Water Resources Control Board in supervising the implementation of the unified program in different jurisdictions, and in supervising the implementation of the unified program in those jurisdictions for which the secretary has waived the assessment of the surcharge pursuant to subdivision (d). The certified unified program agency may itemize the amount of the surcharge on any bill, invoice, or return that the agency sends to a person regulated by the unified program. Each certified unified program agency shall transmit all surcharge revenues collected to the secretary on a quarterly basis. The surcharge shall be deposited in the Unified Program Account, which is hereby created in the General Fund and which may be expended, upon appropriation by the Legislature, by the Office of Emergency Services, the State Fire Marshal, and the State Water Resources Control Board for the purposes of implementing this chapter.

(c) Each certified unified program agency and the secretary shall, before the institution of the single fee system and the assessment of the surcharge, implement a fee accountability program designed to encourage more efficient and cost-effective operation of the program for which the single fee and surcharge are assessed. The fee accountability programs shall include those elements of the requirements of the plan adopted pursuant to Section 25206 that the secretary determines are appropriate.

(d) The secretary may waive the requirement for a county to assess a surcharge pursuant to subdivision (b), if both of the following conditions apply:

(1) The county meets all of the following conditions:

(A) The county submits an application to the secretary for certification on or before January 1, 1996, that incorporates all of the requirements of this chapter, and includes the county's request for

a waiver of the surcharge, and contains documentation that demonstrates, to the satisfaction of the secretary, both of the following:

(i) That the assessment of the surcharge will impose a significant economic burden on most businesses within the county.

(ii) That the combined dollar amount of the surcharge and the single fee system to be assessed by the county pursuant to subdivision (a) exceeds the combined dollar amount of all existing fees that are replaced by the single fee system for most businesses within the county.

(B) The application for certification, including the information required by subparagraph (A), is determined by the secretary to be complete, on or before April 30, 1996. The secretary, for good cause, may grant an extension of that deadline of up to 90 days.

(C) The county is certified by the secretary on or before December 31, 1996.

(D) On or before January 1, 1994, the county completed the consolidation of the administration of the hazardous waste generator program, the hazardous materials release response plans and inventories program, and the underground storage tank program, referenced in paragraphs (1), (3), and (4) of subdivision (c) of Section 25404, into a single program within the county's jurisdiction.

(E) The county demonstrates that it will consolidate the administration of all programs specified in subdivision (c) of Section 25404, and that it will also consolidate the administration of at least one additional program that regulates hazardous waste, hazardous substances, or hazardous materials, as specified in subdivision (d) of Section 25404.2, other than the programs specified in subdivision (c) of Section 25404, into a single program to be administered by a single agency in the county's jurisdiction at the time that the county's certification by the secretary becomes effective.

(2) The secretary makes all of the following findings:

(A) The county meets all of the criteria specified in paragraph (1).

(B) The assessment of the surcharge would impose a significant economic burden on most businesses within the county.

(C) The combined dollar amount of the surcharge and the single fee system to be assessed by the county pursuant to subdivision (a) would exceed the combined dollar amount of all existing fees that are replaced by the single fee system for most businesses within the county.

(D) The waiver of the surcharge for those counties applying for and qualifying for a waiver, and the resulting increase in the surcharge for other counties, would not, when considered cumulatively, impose a significant economic burden on businesses in any other county that does not apply for, or does not meet the criteria for, a waiver of the surcharge.

(e) The secretary shall review all of the requests for a waiver of the surcharge made pursuant to subdivision (d) simultaneously, so as

to adequately assess the cumulative impact of granting the requested waivers on businesses in those counties that have not applied, or do not qualify, for a waiver, and shall grant or deny all requests for a waiver of the surcharge within 30 days from the date that the secretary certifies all counties applying, and qualifying, for a waiver. If the secretary finds that the grant of a waiver of the surcharge for all counties applying and qualifying for the waiver will impose a significant economic burden on businesses in one or more other counties, the secretary shall take either of the following actions:

(1) Deny all of the applications for a waiver of the surcharge.

(2) Approve only a portion of the waiver requests for counties meeting the criteria set forth in subdivision (d), to the extent that the approved waivers, when taken as a whole, meet the condition specified in subparagraph (D) of paragraph (2) of subdivision (d). In determining which of the counties' waiver requests to grant, the secretary shall consider all of the following factors:

(A) The relative degree to which the assessment of the surcharge will impose a significant economic burden on most businesses within each county applying and qualifying for a waiver.

(B) The relative degree to which the combined dollar amount of the surcharge and the single fee system to be assessed, pursuant to subdivision (a), by each county applying and qualifying for a waiver exceeds the combined dollar amount of all existing fees that are replaced by the single fee system for most businesses within the county.

(C) The relative extent to which each county applying and qualifying for a waiver has incorporated, or will incorporate, upon certification, additional programs pursuant to subdivision (d) of Section 25404.2, into the unified program within the county's jurisdiction.

(f) The secretary may, at any time, terminate a county's waiver of the surcharge granted pursuant to subdivisions (d) and (e) if the secretary determines that the criteria specified in subdivision (d) for the grant of a waiver are no longer met.

SEC. 48. Section 25416 of the Health and Safety Code is amended to read:

25416. (a) All studies and community information programs conducted pursuant to this section shall be done only if either subdivision (b) applies or if funds are available without restructuring the department's funding priorities. The department shall conduct these studies and information programs in the following manner:

(1) The department shall, except as provided in subdivision (b), and in conjunction with the local health officer, the State Department of Health Services, and the Office of Environmental Health Hazard Assessment, conduct or contract for epidemiological studies to identify and monitor health effects related to exposure to hazardous materials, as defined in Section 66084 of Title 22 of the California Code of Regulations. A study may be conducted in any area

of the state identified by the department or the local health officer as a site of potential exposure to hazardous materials, including, but not limited to, any of the following areas:

(A) All communities located near hazardous waste disposal facilities.

(B) In all communities containing hazardous substance release sites listed pursuant to Section 25356 or listed pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. Sec. 9601 et seq.).

(C) In all areas around the location of major generators of hazardous waste.

(D) In all other areas identified by local health officers or the State Department of Health Services as possible locations of public exposure to hazardous materials.

(2) The department, in consultation with the State Department of Health Services and the Office of Environmental Health Hazard Assessment, shall determine which epidemiological studies are to be conducted pursuant to this section based on the potential for public exposure to hazardous materials. Studies in areas near Class I hazardous waste disposal facilities, as defined in Section 2531 of Title 23 of the California Code of Regulations, shall be given the highest priority for funding. If a hearing is conducted pursuant to Section 25149 and the hearing officer determines that there is a significant potential for endangerment to the public as a result of the suspected or actual release of a hazardous material, the department shall give priority to conducting an epidemiological study for that facility.

(3) If a local health officer determines that a study should be conducted pursuant to this section because of a potential public exposure to hazardous materials, the local health officer may request that the department initiate or contract for a study pursuant to this section by demonstrating to the department that there is sufficient evidence that justifies the need for a study. The department shall respond to the local health officer's request within 90 days.

(4) A local health officer may contract with qualified persons or firms to produce the epidemiological studies specified in paragraph (1).

(5) The design and methodology of any study conducted pursuant to this section shall be reviewed and approved by the department, the State Department of Health Services, and the Office of Environmental Health Hazard Assessment prior to the initiation of the study.

(6) In any county in which hazardous waste disposal facilities are located and in all other counties in which the State Department of Health Services identifies significant actual or potential public exposure to hazardous materials, the department shall, in conjunction with the local health officer, conduct or contract for a community information program with respect to sites of potential

exposure to hazardous materials identified under paragraph (1) to do all of the following:

(A) Organize and conduct educational programs for local physicians and other health professionals on the effects of exposure to hazardous materials and reporting requirements.

(B) Disseminate information to high risk populations on the health effects of exposure to hazardous materials.

(C) Conduct public forums on the health effects of exposure to hazardous substances and methods of limiting exposure.

(7) Paragraph (6) does not apply to hazardous substance release sites listed on the National Priorities List for which the Environmental Protection Agency has assumed lead responsibility for community relations.

(b) If a county is authorized to impose a license tax pursuant to Section 25149.5 for revenue purposes, the department may require the county to provide funding for carrying out epidemiological studies or the community information program concerning the hazardous waste facility subject to the license tax. The department shall provide the county with technical assistance to conduct an epidemiological study pursuant to this subdivision. The department may exempt a county from the requirements of this subdivision if the county demonstrates to the department that the revenue potential from the facility would not be adequate to conduct an epidemiological study or community information program. When considering a county request for an exemption, the department shall consider the regulatory costs and responsibilities of the county related to that facility.

(c) The department shall expend funds from the Toxic Substances Control Account, upon appropriation by the Legislature, to conduct studies and community information programs in counties containing a hazardous substance release site listed pursuant to Section 25356. The department shall expend funds from the Hazardous Waste Control Account, upon appropriation by the Legislature, to conduct all other studies and community information programs conducted pursuant to this section, except as provided in subdivision (b).

SEC. 49. Section 43053 of the Revenue and Taxation Code is amended to read:

43053. The fees imposed pursuant to Sections 25205.2, 25205.5, 25205.7, and 25205.14 of the Health and Safety Code shall be administered and collected by the board in accordance with this part.

SEC. 50. Section 43054 of the Revenue and Taxation Code is amended to read:

43054. The fees imposed pursuant to Section 25205.6 of the Health and Safety Code shall be administered and collected by the board in accordance with this part.

SEC. 51. Section 43055 of the Revenue and Taxation Code is repealed.

SEC. 52. Section 43101 of the Revenue and Taxation Code is amended to read:

43101. Every person, as defined in Section 25118 of the Health and Safety Code, who is subject to the fees specified in subdivision (a) of Section 25173.6 of the Health and Safety Code, subdivision (a) of Section 25174 of the Health and Safety Code, Section 105190 of the Health and Safety Code, or Section 25205.14 of the Health and Safety Code shall register with the board on forms provided by the board.

SEC. 52.5. Section 43152.16 is added to the Revenue and Taxation Code, to read:

43152.16. (a) The board shall issue refunds, if directed to do so by the department, upon making the certification specified in subdivision (d), for some, or all, of the fees imposed pursuant to Sections 25205.5 and 25205.9 of the Health and Safety Code, for hazardous waste generated in 1997.

(b) The board may issue a refund only to a generator who received a credit pursuant to Section 43152.7 or 43152.11 for fees paid for hazardous waste generated in 1996.

(c) The refund made to a generator pursuant to this section shall not exceed the generator's credit for hazardous waste generated in 1996, or exceed the generator's fee paid to a certified unified program agency in 1997, whichever amount is less.

(d) The board may issue refunds pursuant to this section only if the department certifies that funds for these refunds are available.

SEC. 53. (a) The Legislature hereby finds and declares all of the following:

(1) Section 25385.8 of the Health and Safety Code requires that five million dollars ($5,000,000) be transferred annually from the Hazardous Substance Account to the Superfund Bond Trust Fund to be held in reserve and provides that money deposited in the Hazardous Substance Clearing Account may be used only to pay the principal of, and interest on, the bonds issued and sold pursuant to Article 7.5 (commencing with Section 25285) of Chapter 6.8 of Division 20 of the Health and Safety Code.

(2) Notwithstanding Section 25358.8 of the Health and Safety Code, Item 4260-016-826 of the Budget Act of 1991 (Chapter 118 of the Statutes of 1991) directed the Controller, upon approval of the Department of Finance, to transfer not less than twenty million dollars ($20,000,000) from the Superfund Bond Trust Fund to the General Fund to balance the budget for the 1991–92 fiscal year. In accordance with the Budget Act of 1991, the Controller transferred twenty million dollars ($20,000,000) from the Superfund Bond Trust Fund to the General Fund on June 2, 1992.

(3) The transfer of funds described in paragraph (2) will cause a shortfall in funds needed to repay the principal of, and interest on, the bonds issued and sold pursuant to Article 7.5 (commencing with Section 25385) of Chapter 6.8 of Division 20 of the Health and Safety Code beginning with the 1998–99 fiscal year. Because of the

impending shortfall, the Legislature finds that the General Fund should reimburse the Superfund Bond Trust Fund for the money transferred pursuant to Item 4260-016-826 of the Budget Act of 1991, plus interest at the applicable State Surplus Money Investment Fund interest rate, for all periods during which the General Fund had use of the funds and until the Superfund Bond Trust Fund is fully reimbursed.

(b) The following amounts shall be transferred from the General Fund to the Superfund Bond Trust Fund to pay the principal of, and interest on, the bonds issued and sold pursuant to Article 7.5 (commencing with Section 25285) of Chapter 6.8 of Division 20 of the Health and Safety Code, in accordance with the following schedule:

(1) Three million five hundred thousand dollars ($3,500,000) shall be transferred from the General Fund to the Superfund Bond Trust Fund on or before August 1, 2000.

(2) Three million three hundred thousand dollars ($3,300,000) shall be transferred from the General Fund to the Superfund Bond Trust Fund on or before August 1, 2001.

(3) Three million one hundred thousand dollars ($3,100,000) shall be transferred from the General Fund to the Superfund Bond Trust Fund on or before August 1, 2002.

(4) Two million nine hundred thousand dollars ($2,900,000) shall be transferred from the General Fund to the Superfund Bond Trust Fund on or before August 1, 2003.

(5) The amount needed to repay the remainder of the funds transferred pursuant to Item 4260-016-826 of the Budget Act of 1991, plus all interest accrued since the date that the transfer took place, shall be transferred from the General Fund to the Superfund Bond Trust Fund on or before August 1, 2004.

SEC. 54. (a) Except as otherwise provided in this section, Sections 1 to 10, inclusive, Sections 13 to 18, inclusive, Sections 22, 23, and 25, and Sections 28 to 53, inclusive, of this act shall become operative July 1, 1998.

(b) The amendments to Sections 25205.4, 25205.5, 25205.6, 25205.14, and 25205.15 of the Health and Safety Code made by Sections 19, 20, 21, 26, and 27 of this act shall become operative January 1, 1998. The repeal of Sections 25174.2, 25174.6, and 25205.9 of the Health and Safety Code by Sections 11, 12, and 24 of this act shall become operative January 1, 1998. The addition of Section 25174.6 to the Health and Safety Code made by Section 12.3 of this act shall become on operative January 1, 1998.

(c) The addition of Sections 25174.2 and 25174.6 to the Health and Safety Code made by Sections 11.5 and 12.5, respectively, of this act shall become operative on January 1, 2001.

(d) (1) Sections 25174.2 and 25174.6, as added to the Health and Safety Code by Sections 11.5 and 12.5, respectively, of this act, shall initially apply to the disposal fee for January 2001. Section 25174.6, as added to the Health and Safety Code by Section 12.3 of this act, shall

apply to the disposal fees for calendar years commencing January 1, 1998, January 1, 1999, and January 1, 2000.

(2) For the purposes of this subdivision, the disposal fee for January of any year means the fee that is due and payable to the State Board of Equalization by April 30 of that year pursuant to Section 43151 of the Revenue and Taxation Code.

(e) (1) The amendments to Section 25205.4 of the Health and Safety Code made by Section 19 of this act shall initially apply to the annual facility fee for 1998.

(2) For the purposes of this subdivision, the annual facility fee for any year means the fee that is due and payable by February 28 of the following year, pursuant to Section 43152.6 of the Revenue and Taxation Code, including all prepayments that are due during that year.

(f) (1) The changes in the annual fees specified in Section 25205.14 of the Health and Safety Code made by Section 26 of this act shall initially apply to the annual fee for 1998.

(2) For purposes of this subdivision "the annual fee for 1998" means the fee that is due and payable by February 28, 1999, pursuant to Section 43152.6 of the Revenue and Taxation Code, including all prepayments that are due during 1998.

(g) (1) The amendments to Section 25205.5 of the Health and Safety Code made by Section 20 of this act and the repeal of Section 25205.9 of the Health and Safety Code made by Section 24 of this act shall initially apply to the generator fee and the surcharge for 1998.

(2) For purposes of this subdivision, "the generator fee and the surcharge for 1998" means the fee and surcharge that are due and payable by February 28, 1999, pursuant to Sections 43152.7 and 43152.11 of the Revenue and Taxation Code, including all prepayments that are due during 1998.

(h) (1) The amendments to Section 25205.6 of the Health and Safety Code made by Section 21 of this act shall initially apply to the environmental fee for 1998.

(2) For purposes of this subdivision "the environmental fee for 1998" means the fee that is due and payable by February 28, 1999, pursuant to Section 43152.9 of the Revenue and Taxation Code.

(i) On July 1, 1998, any assets, obligations, and encumbrances of the Site Remediation Account shall automatically be transferred to the Toxic Substances Control Account in the General Fund.

SEC. 55. The calculation of the surcharge, described in subdivision (b) of Section 25404.5 of the Health and Safety Code, to be assessed for the 1998–99 fiscal year and for subsequent fiscal years shall reflect the changes in Section 25404.5 of the Health and Safety Code made by Section 47 of this act.

SEC. 56. Section 2.5 of this bill incorporates amendments to Section 25143 of the Health and Safety Code proposed by both this bill and Assembly Bill 1157. 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 25143 of the Health and Safety Code, and (3) this bill is enacted after AB 1157, in which case Section 25143 of the Health and Safety Code, as amended by AB 1157, shall remain operative only until the operative date of this bill, at which time Section 2.5 of this bill shall become operative, and Section 2 of this bill shall not become operative.

SEC. 57. Section 47.5 of this bill incorporates amendments to Section 25404.5 of the Health and Safety Code proposed by both this bill and Assembly Bill 1357. 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 25404.5 of the Health and Safety Code, and (3) this bill is enacted after AB 1357, in which case Section 25404.5 of the Health and Safety Code, as amended by AB 1357, shall remain operative only until the operative date of this bill, at which time Section 47.5 of this bill shall become operative, and Section 47 of this bill shall not become operative.

SEC. 58. The Legislature hereby finds and declares that the amendments to Section 25192 of the Health and Safety Code made by Section 15 of this act furthers the purposes of the Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65), as enacted by the voters on the November 4, 1986, general election.

SEC. 59. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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

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## CHAPTER 871

An act to amend Sections 13143 and 17920.8 of the Health and Safety Code, relating to building standards.

[Approved by Governor October 11, 1997. Filed with Secretary of State October 12, 1997.]

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

SECTION 1. Section 13143 of the Health and Safety Code is amended to read:

13143. (a) Except as provided in Section 18930, the State Fire Marshal, with the advice of the State Board of Fire Services, shall prepare, adopt, and submit building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of Division 13 and shall prepare and adopt other regulations establishing minimum requirements for the prevention of fire and for the protection of life and property against fire and panic in any building or structure used or intended for use as an asylum, jail, mental hospital, hospital, home for the elderly, children's nursery, children's home or institution not otherwise excluded from the coverage of this subdivision, school, or any similar occupancy of any capacity, and in any assembly occupancy where 50 or more persons may gather together in a building, room, or structure for the purpose of amusement, entertainment, instruction, deliberation, worship, drinking or dining, awaiting transportation, or education. The State Fire Marshal shall adopt and submit building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of Division 13 for the purposes described in this section. Regulations adopted pursuant to this subdivision and building standards relating to fire and panic safety published in the California Building Standards Code shall establish minimum requirements relating to the means of egress and the adequacy of exits from, the installation and maintenance of fire extinguishing and fire alarm systems in, the storage and handling of combustible or explosive materials or substances, and the installation and maintenance of appliances, equipment, decorations, security bars, grills, grates, and furnishings that present a fire, explosion or panic hazard, and the minimum requirements shall be predicated on the height and fire-resistive qualities of the building or structure and the type of occupancy for which it is to be used. The building standards and other regulations shall apply to auxiliary or accessory buildings used or intended for use with any of the occupancies mentioned in this subdivision. Violation of any building standard or other regulation shall be a violation of the provisions of this chapter.

In preparing and adopting building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of Division 13, and in preparing and adopting other regulations affecting public schools, the State Fire Marshal shall also secure the advice of the State Department of Education. No regulation adopted by the State Fire Marshal shall conflict with any rule, regulation, or building standard lawfully adopted or enforced by the Department of General Services pursuant to Article 3 (commencing with Section 39140) of Chapter 2 of Part 23 or Article 7 (commencing with Section 81130) of Chapter 1 of Part 49 of the Education Code.

In addition to any other requirements for location of exit signs or devices in any building or structure used or intended for use as an asylum, jail, mental hospital, hospital, home for the elderly, children's nursery, children's home or institution not otherwise excluded from

the coverage of this subdivision, school, or any similar occupancy of any capacity, and in any assembly occupancy where 50 or more persons may gather together in a building, room, or structure for the purpose of amusement, entertainment, instruction, deliberation, worship, drinking or dining, awaiting transportation, or education, the State Fire Marshal shall adopt building standards pursuant to this section establishing minimum requirements for the placement of distinctive devices, signs, or other means that identify exits and can be felt or seen near the floor. Exit sign technologies permitted by the model building code upon which the California Building Standards Code is based, shall be permitted. These building standards shall be adopted before July 1, 1998, and shall apply to all newly constructed buildings or structures subject to this subdivision for which a building permit is issued, (or construction commenced, where no building permit is issued) on or after January 1, 1989.

(b) Notwithstanding the provisions of subdivision (a) and Section 13143.6, facilities licensed pursuant to Chapter 3 (commencing with Section 1500) of Division 2 which provide nonmedical board, room, and care for six or fewer ambulatory children placed with the licensee for care or foster family homes and family day care homes for children, licensed pursuant to Chapter 3.6 (commencing with Section 1597.50) of Division 2, with a capacity of six or fewer and providing care and supervision for ambulatory children or children two years of age or younger, or both, shall not be subject to the provisions of Article 1 (commencing with Section 13100) or Article 2 (commencing with Section 13140) of this chapter or regulations adopted pursuant thereto. No city, county, or public district shall adopt or enforce any requirement for the prevention of fire or for the protection of life and property against fire and panic with respect to structures used as facilities specified in this subdivision, unless the requirement would be applicable to a structure regardless of the special occupancy. Nothing in this subdivision shall restrict the application of state or local housing standards to those facilities, if the standards are applicable to residential occupancies and are not based upon the use of the structure as a facility specified in this subdivision.

"Ambulatory children," as used in this subdivision, does not include nonambulatory persons, as defined in Section 13131, and relatives of the licensee or the licensee's spouse.

(c) The State Fire Marshal shall adopt building standards establishing regulations providing that all school classrooms constructed after January 1, 1990, not equipped with automatic sprinkler systems, which have metal grills or bars on all their windows and do not have at least two exit doors within three feet of each end of the classroom opening to the exterior of the building or to a common hallway used for evacuation purposes, shall have an inside release for the grills or bars on at least one window farthest from the exit doors. The window or windows with the inside release shall be

clearly marked as an emergency exit, in accordance with regulations adopted by the State Fire Marshal.

SEC. 2. Section 17920.8 of the Health and Safety Code is amended to read:

17920.8. In addition to any other requirements for location of exit signs or devices in hotels, motels, or apartment houses, the State Fire Marshal shall adopt building standards establishing minimum requirements for the placement of distinctive devices, signs, or other means that identify exits and can be felt or seen near the floor. Exit sign technologies permitted by the model building code upon which the California Building Standards Code is based, shall be permitted. These building standards shall apply to all newly constructed occupancies subject to this section for which a building permit is issued, or construction is commenced, where no building permit is issued on or after January 1, 1989.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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

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## CHAPTER 872

An act to add Sections 8709.2, 8709.3, and 8709.4 to the Water Code, relating to water.

[Approved by Governor October 11, 1997. Filed with Secretary of State October 12, 1997.]

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

SECTION 1. It is the intent of the Legislature that the fences described in subdivision (a) of Section 8709.3 of the Water Code be removed from state maintenance areas under the jurisdiction of the Reclamation Board at no cost to the state. It is further the intent of the Legislature that the Department of Water Resources shall provide proactive information on encroachments to local planning departments in counties that have regulated floodplains.

SEC. 2. Section 8709.2 is added to the Water Code, to read:

8709.2. “Water side of levee” means the area on the levee slope between the edge of the crown nearest the water to the water side levee toe.

SEC. 3. Section 8709.3 is added to the Water Code, to read:

8709.3. (a) Fences that are designed to give way during high water events shall not be allowed on the water side of a levee. Fences on the water side of a levee that are partially or wholly under water during high water events, and that are located within state maintenance areas within city limits under the jurisdiction of the board, shall be constructed so as to be removable by the permittee in segments during times of high water events as the water level rises up the levee.

(b) The permittee shall remove the segments of the fence during times of high water events.

(c) The board shall adopt emergency regulations necessary to implement this section in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The adoption of emergency regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health, and safety, or general welfare.

SEC. 4. Section 8709.4 is added to the Water Code, to read:

8709.4. (a) Before taking action to remove or modify encroachments on levees, channels, and other flood control works pursuant to powers granted by this part or standards adopted pursuant to this part, the board shall make one of the following findings, based on substantial evidence, regarding the encroachment’s impact on public safety:

(1) The encroachment presents an imminent threat to the structural integrity of the levee, channel, or other flood control work.

(2) The encroachment significantly impairs the functional capability of the levee, channel, or other flood control work to fulfill its particular intended role in the overall flood control plan.

(b) Routine maintenance that includes the removal or modification of fences, gates, and vegetation on the levee structure and other flood control structures is not subject to subdivision (a).

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## CHAPTER 873

An act to add Chapter 3 (commencing with Section 850) to Title 3 of Part 2 of Division 2 of the Civil Code, relating to hazardous materials.

[Approved by Governor October 11, 1997. Filed with Secretary of State October 12, 1997.]

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

SECTION 1. Chapter 3 (commencing with Section 850) is added to Title 3 of Part 2 of Division 2 of the Civil Code, to read:

## CHAPTER 3. ENVIRONMENTAL RESPONSIBILITY ACCEPTANCE ACT

850. The definitions set forth in Section 25260 of the Health and Safety Code govern the construction of this chapter. In addition, the following definitions apply for purposes of this chapter only:

(a) "Actual awareness" means actual knowledge of a fact pertaining to an obligation under this chapter, including actual knowledge of a release exceeding the notification threshold. Only actual awareness possessed by those employees or representatives of an owner of a site who are responsible for monitoring, responding to or otherwise addressing the release shall be attributable to the owner. Only actual awareness possessed by those employees or representatives of a potentially responsible party who are responsible for monitoring, responding to, or otherwise addressing, the release shall be attributable to the potentially responsible party.

(b) "Commitment statement" means a written statement executed by the notice recipient which recites expressly the language specified in Section 854.

(c) "Mediation" means an informal process in which the disputing parties select a neutral third party to assist them in reaching a negotiated settlement in which the neutral third party has no power to impose a solution on the parties, but rather has the power only to assist the parties in shaping solutions to meet their interests and objectives.

(d) "Negative response" means a written response by the recipient of a notice of potential liability indicating that the recipient will not undertake any response action, or a deemed negative response pursuant to subdivision (c) of Section 851 in the event of the recipient's failure to respond.

(e) "Neutral third party" means an experienced professional, such as an attorney, engineer, environmentalist, hydrologist, or retired judge, who has served as a mediator.

(f) "Notice of potential liability" means a notice, sent by the owner of the site, stating that a release that exceeds the notification threshold has occurred at the site and that the owner believes that the recipient of the notice is a responsible party with respect to the release. The notice of potential liability shall describe the location of the site and the nature of the release.

(g) "Notice recipient" means any one of the following:

(1) A person who receives a notice of potential liability pursuant to subdivision (a) of Section 851.

(2) A person who provides a release report pursuant to subdivision (b) of Section 851.

(3) A person who offers a commitment statement to the owner of a site pursuant to subdivision (c) of Section 851.

(h) "Notification threshold" means any release of such a magnitude that:

(1) The release is the subject of a response action which has been ordered by, or is being performed by, an oversight agency; or

(2) The release is impeding the ability of the owner of the site to sell, lease, or otherwise use the site.

(i) "Operation and maintenance" means any activity as defined in subdivision (a) of Section 25318.5 of the Health and Safety Code.

(j) "Oversight agency" means any agency, as defined in subdivision (c) of Section 25260 of the Health and Safety Code, that has jurisdiction over a response action performed in connection with a release that is the subject of a notice of potential liability. Subject to any other limitation imposed by law, an oversight agency retains full discretion as to when it exercises jurisdiction over a site.

(k) "Reasonable steps," as used in subdivision (a) of Section 851, means the least expensive means available to ascertain the potentially responsible parties. If the owner cannot otherwise identify any apparent, potentially responsible parties, then "reasonable steps" includes:

(1) Conducting a title search; and

(2) Reviewing all environmental reports in the owner's possession of which the owner has actual awareness pertaining to the site.

(*l*) "Release" means the release, as defined in Sections 25320 and 25321 of the Health and Safety Code, of a hazardous material or hazardous materials.

(m) "Release report" means a notice sent by a responsible party to the owner of the site stating that a release has occurred on the site which is likely to exceed the notification threshold. The release report shall describe the location of the site and the nature of the release.

(n) "Remedial action" means any action as defined in Section 25322 of the Health and Safety Code.

(o) "Removal action" means any action as defined in subdivision (a) of Section 25323 of the Health and Safety Code.

(p) "Response action" means any removal actions, including, but not limited to, site investigations and remedial actions, including, but not limited to, operation and maintenance measures.

(q) "Responsible party" means any person who is liable under state or local law for taking action in response to a release.

(r) "Site" means any parcel of commercial, industrial, or agricultural real property where a hazardous materials release has occurred.

(s) "Written action" means any official action by any oversight agency where the oversight agency has expressly exercised its cleanup authority in writing, pursuant to the oversight agency's procedures, directing a response action at the site.

851. (a) An owner of a site who has actual awareness of a release exceeding the notification threshold shall take all reasonable steps as defined in subdivision (j) of Section 850 to expeditiously identify the potentially responsible parties. The owner shall, as soon as reasonably possible after obtaining actual awareness of the potentially responsible parties, send a notice of potential liability to the identified potentially responsible parties and the agency, as defined in subdivision (c) of Section 25260 of the Health and Safety Code, that the owner believes to be the appropriate oversight agency. For any release exceeding the notification threshold of which the owner has actual awareness that occurred prior to, but within three years of, the effective date of this section, the notice shall be given on or before December 31, 1998.

(b) A potentially responsible party who has actual awareness of a release which is likely to exceed the notification threshold shall as soon as reasonably possible after obtaining actual awareness of the release provide the owner of the site where the release occurred with a release report. For any release exceeding the notification threshold of which the potentially responsible party has actual awareness that occurred prior to, but within three years of, the effective date of this section, the release report shall be given on or before December 31, 1998. A potentially responsible party may issue, at the potentially responsible party's option, a commitment statement to the owner of the site within 120 days of the potentially responsible party's issuance of a release report. The fact that a release report is issued shall not constitute an admission of liability and may not be admitted as evidence against a potentially responsible party in any litigation.

(c) When a notice of potential liability is issued, a notice recipient shall respond to the owner, in writing, and by certified mail, return receipt requested, within 120 days from the date that the notice of potential liability was mailed. The notice recipient's response shall be either a commitment statement or a negative response. The notice recipient's failure to submit the written response within the 120-day period, or failure to strictly comply with the form of the written response, as provided in Section 854, shall be deemed a negative response. The owner may agree in writing to extend the period during which the notice recipient may respond to the notice of potential liability. An extension of up to 120 days shall be provided if the notice recipient commits to do a site investigation, the results of which shall be provided to the owner and the oversight agency.

(d) (1) The common law duty to mitigate damages shall apply to any failure of the owner of a site to give a timely notice of potential liability when the owner is required to give this notice pursuant to this chapter. Where an owner fails to mitigate damages by not giving a timely notice of potential liability, the owner's damage claim shall be reduced in accordance with common law principles by the amount that the potentially responsible party proves would have

likely been mitigated had a timely notice of potential liability been given.

(2) Common law principles shall apply to the failure of the potentially responsible party to issue a timely release report. Where a potentially responsible party fails to give a timely release report, the potentially responsible party, in accordance with common law principles, shall be responsible to the owner of the site, for damages that the owner proves are likely caused by such failure to provide a release report.

(3) Any party who argues the applicability of this subdivision carries the burden of proof in that regard.

(4) Nothing in this section is intended to create a new cause of action or defense beyond that which already exists under common law.

(5) Subdivisions (a) and (b), and paragraphs (1) and (2) of this subdivision, shall not apply when the party to whom a notice of potential liability or release report is owed already possesses actual awareness of the information required to be transmitted in such notice of potential liability or release report.

(e) (1) Except as provided in paragraph (2), the requirements of this chapter shall not apply to a site listed pursuant to Section 25356 of the Health and Safety Code for response action pursuant to Chapter 6.8 (commencing with Section 25300) of Division 20 of the Health and Safety Code or to a site where an oversight agency has issued an order or entered into an enforceable agreement pursuant to any authority, including, but not limited to, an order or enforceable agreement entered into by a local agency, the Department of Toxic Substance Control, the State Water Resources Control Board, or a regional water quality control board pursuant to Chapter 6.5 (commencing with Section 25100), Chapter 6.7 (commencing with Section 25280), Chapter 6.75 (commencing with Section 25299.10), Chapter 6.8 (commencing with Section 25300), Chapter 6.85 (commencing with Section 25396), or Chapter 6.11 (commencing with Section 25404) of Division 20 of the Health and Safety Code, or pursuant to Division 7 (commencing with Section 13000) of the Water Code.

(2) The requirements of this chapter shall apply if either of the following applies:

(A) The order or enforceable agreement is issued or entered into after the owner accepts a commitment statement.

(B) The Department of Toxic Substance Control, State Water Resources Control Board, or regional water quality control board that issued the order or entered into an enforceable agreement consents in writing to the applicability of this chapter to the site.

(f) It is the intent of the Legislature for this chapter to resolve disputes between, and affect the rights of, private parties only. Nothing in this chapter shall affect the authority of the Department of Toxic Substance Control, the State Water Resources Control

Board, a regional water quality control board, or any other oversight agency.

(g) Notwithstanding any other provision of this chapter, any time prior to accepting a commitment statement, the owner may provide the notice to the notice recipient that the provisions of subdivision (c), paragraph (2) of subdivision (e), and Sections 852 and 854, shall not apply to the site, in which case the provisions of subdivision (c), paragraph (2) of subdivision (e), and Sections 852 and 854 shall not apply to the site and the owner and notice recipient shall be entitled to pursue all other legal remedies and defenses authorized by law.

852. (a) Within 45 days after issuance of the commitment statement, the owner may transmit to the notice recipient by certified mail, return receipt requested, an executed copy of the commitment statement, indicating its acceptance. If the owner does not execute the commitment statement, the commitment statement shall be deemed to have been rejected upon expiration of the 45-day period. A notice recipient has no obligation with respect to the provisions of a rejected commitment statement.

(b) (1) Except as otherwise provided in this chapter, or unless the owner or the notice recipient has elected not to proceed with the mediation, if the owner rejects the commitment statement, the owner and notice recipient shall participate in a mediation process prior to the commencement of any litigation which pertains to a release covered by the commitment statement. The mediation process shall be supervised by a neutral third party mutually agreed upon by the owner and the notice recipient in order to mediate a mutually agreeable settlement between the owner and notice recipient of all issues related to the release.

(2) Either the notice recipient or the owner may elect not to proceed further with the mediation process at any time prior to completion of those proceedings.

(3) To the extent a mutually agreeable settlement is reached which allocates the liability and assigns the rights and obligations of the owner and notice recipient in a manner different from or inconsistent with this chapter, the settlement shall supersede the terms of this chapter pursuant to subdivision (f) of Section 853. If a settlement of all issues cannot be reached within 90 days after the owner's rejection of the commitment statement, the neutral third party shall declare the mediation process unsuccessful and terminate the process. The owner and notice recipient may mutually agree to extend the mediation process but shall communicate any such extension in writing to the neutral third party. If the party issuing the commitment statement fails, for any reason, to participate in the mediation within 90 days of the rejection of the commitment statement, the owner may proceed with litigation.

(4) After the termination of an unsuccessful mediation process, the parties shall be free to litigate or otherwise resolve their respective claims. The parties may mutually agree to the terms of the

commitment statement at any time after the termination of an unsuccessful mediation process, in which case this chapter shall govern the rights and obligations of the parties.

(5) Any applicable statute of limitations shall be tolled for 90 days following issuance of a notice of potential liability, a release report, or a commitment statement.

(6) Any applicable statute of limitations shall be tolled from the time the owner rejects a commitment statement until the termination of the mediation process. If mediation is not commenced within 90 days after the owner's rejection of the commitment statement, the tolling of the statute of limitations shall terminate unless otherwise agreed to by the parties.

(7) Unless the owner and notice recipient agree otherwise, the fees and costs of the neutral third party shall be borne equally by the notice recipient and the owner.

(c) Upon taking effect, the commitment statement shall have all of the following results:

(1) The commitment statement shall constitute a binding promise that the notice recipient will undertake any response action as required by an oversight agency through a written action, directed to the owner or notice recipient, in connection with the release that is the subject of the notice of potential liability or release report. The commitment statement shall not create any obligations with respect to releases occurring after the commitment statement is signed, or with respect to any other release that is not the subject of the notice of potential liability.

(2) The commitment statement shall constitute a binding promise that the owner shall provide reasonable site access to the notice recipient to take any action that is reasonably necessary or appropriate to conduct a response action. This grant of access shall not affect the rights of the owner if the notice recipient's activities onsite result in physical damage to the site which the notice recipient fails to repair within a reasonable period after completion of all onsite activities. Unless otherwise ordered by the oversight agency, the notice recipient shall take all reasonable steps to avoid interfering with the owner's use of the site.

(3) Except for civil actions seeking damages for personal injury or wrongful death, once a commitment statement has been accepted, the court shall stay any action brought by the owner of the site against the notice recipient that issued the commitment statement, including, but not limited to, actions in trespass, nuisance, negligence, and strict liability, which arise from or relate to a release for which a commitment statement has been issued. The stay shall be effective for a period of not more than two years from the date of acceptance of the commitment statement, but only so long as the site response action is proceeding to the satisfaction of an oversight agency. The stay shall not apply to any civil action that is based on fraud, failure to disclose, or misrepresentation related to any

transaction between the owner of the site and the notice recipient, to any civil action for breach of the commitment statement, or to any civil action which is unrelated to the release. The owner and notice recipient may elect to extend the period of the stay by written agreement.

(4) In an action by an owner who has accepted a commitment statement against the notice recipient who issued the commitment statement, and which arises from or relates to a release for which a commitment statement has been issued, only the following damages shall be recoverable to the extent otherwise authorized by law:

(A) Damages for personal injuries or wrongful death caused by the release.

(B) Damages for breach of a commitment statement.

(C) Damages from the failure of a prospective purchaser to perform under a sales contract because of the release, where such failure to perform occurs prior to the issuance of the commitment statement.

(D) Damages for the lost use of the property prior to the issuance of a commitment statement caused by the release.

(E) Recovery of costs of investigating and responding to the release where such costs are incurred prior to the issuance of the commitment statement.

(F) Remedies for any breach of a preexisting contract entered into prior to the acceptance of a commitment statement.

(G) Damages for lost rents and any other damages recoverable under law associated with lost use of the site caused by any notice recipient during site response action activities.

(5) An owner may obtain rescission of a commitment statement if a notice recipient repudiates its obligations under the commitment statement, in which case Sections 852 and 854 shall no longer apply to the site.

(6) The notice recipient and owner shall copy each other with respect to all correspondence and proposed workplans to and from the oversight agency that relate to the site.

(d) Nothing in this chapter shall affect the authority of an oversight agency under the law to bring an administrative, criminal, or civil action against either a notice recipient or the owner, nor does it compel any action on the part of the oversight agency.

(e) At any time after the commitment statement is accepted, either the owner or the notice recipient may file an action against the other for material breach of rights and obligations associated with the commitment statement. Subject to the stay provided for in paragraph (3) of subdivision (c), the parties may litigate these claims in the same action as any other claims they may have in connection with the release that is the subject of the commitment statement.

(f) Whenever a notice recipient issues a commitment statement, the following notice shall be provided in 14 point boldface type if printed or in boldface capital letters if typed:

“THIS FORM WAS DEVELOPED AS PART OF A PROCESS ENACTED BY THE CALIFORNIA LEGISLATURE TO PROVIDE OWNERS OF PROPERTY AND POTENTIALLY RESPONSIBLE PARTIES AN ALTERNATIVE TO LITIGATING DISPUTES OVER CONTAMINATION. IT IS YOUR OPTION AS TO WHETHER YOU SIGN THIS FORM OR OTHERWISE PARTICIPATE IN THIS PROCESS. IF YOU CHOOSE NOT TO PARTICIPATE IN THE PROCESS, YOU SHOULD NOTIFY THE PARTY WHO SENT YOU THIS FORM. THIS FORM INVOLVES A TRADEOFF WHEREBY EACH PARTY ACQUIRES AND RELINQUISHES CERTAIN RIGHTS. UNDER THIS FORM, THE PROPERTY OWNER GETS THE ASSURANCE THAT THE POTENTIALLY RESPONSIBLE PARTY IS OBLIGATED TO PERFORM INVESTIGATORY AND CLEANUP ACTIONS IN THE EVENT THAT GOVERNMENT AUTHORITIES ELECT TO REQUIRE THESE ACTIONS. ON THE OTHER HAND, THE PROPERTY OWNER FOREGOES CERTAIN CLAIMS ASSOCIATED WITH RESIDUAL CONTAMINATION THAT GOVERNMENTAL AUTHORITIES ALLOW TO REMAIN IN PLACE ON THE PROPERTY. IF YOU ELECT NOT TO SIGN THIS FORM, THE PROCESS DEVELOPED BY THE LEGISLATURE CONTEMPLATES THAT YOU WILL ATTEMPT TO MEDIATE ANY DISPUTES REGARDING THE CONTAMINATION. HOWEVER, MEDIATION IS NEITHER MANDATORY NOR BINDING. IF YOU HAVE QUESTIONS ABOUT THE PROCESS, YOU MAY WISH TO CONSULT AN ATTORNEY.”

(g) Any applicable statute of limitations shall be tolled for two and one-half years from the date of acceptance of the commitment statement. If at the end of two years from the date of acceptance of the commitment statement an oversight agency has not issued a written action directed to the owner or notice recipient, the owner has 60 days in which he or she may terminate the commitment statement; and, in this event, it shall have no further force or effect. In the event the owner terminates the commitment statement, subdivision (c) shall no longer apply to the site and shall no longer govern the rights and obligations of the owner or notice recipient.

853. (a) Neither the failure to issue a commitment statement nor its issuance shall be construed as an admission that the recipient of the notice of potential liability is liable under any federal, state, or local law, including common law, for the release that the party agrees to investigate or respond. Neither the failure to issue a commitment statement nor the contents of the commitment statement shall be admissible evidence in any proceeding, as defined in Section 901 of the Evidence Code, except that the contents of the commitment statement shall be admissible evidence in an action to enforce the commitment statement to the extent that such contents would be admissible under other applicable law.

(b) Nothing in this chapter shall subject a notice recipient to any damages, fines, or penalties for a failure to make a written response, either positive or negative, to a notice of potential liability.

(c) Nothing in this chapter shall subject the owner of a site to any damages, fines, or penalties for a failure to send a notice of potential liability pursuant to Section 851. Failure by the owner of a site to send a notice of potential liability of a release in a timely fashion shall not be deemed to create any liability for the owner under a theory of negligence per se.

(d) Nothing in this chapter imposes an affirmative duty on the owner of a site, or any potentially responsible party, to discover, or determine the nature or extent of, a hazardous materials release at the site. This chapter does not affect such an affirmative duty to the extent it is imposed by any other law.

(e) Subject to the defenses specified in Section 101(35) and 107(b) of the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Secs. 9601(35) and 9607(b)), a cause of action is hereby established whereby a notice recipient may recover from any responsible party any reasonable response costs for conducting a response action as may be approved or overseen by an oversight agency or as incurred pursuant to a commitment statement. Liability among responsible parties shall be allocated based upon the equitable factors specified in subdivision (c) of Section 25356.3 of the Health and Safety Code. No third-party beneficiary rights are created by a commitment statement, except as provided in subdivision (b) of Section 854. This cause of action applies to costs incurred prior to enactment of this subdivision. However, no recovery may be obtained under this subdivision for costs incurred more than three years prior to the filing of litigation to recover those costs. The cause of action established pursuant to this subdivision shall not apply against a current or former owner of a site unless that owner operated a business that caused a release being addressed by a response action at the site and the costs incurred by the notice recipient were in response to a release caused by the owner.

(f) Nothing in this chapter shall affect or limit the rights of an owner under preexisting contract. Nothing in this chapter shall affect or limit the right of a notice recipient and owner to agree to an allocation of liability or to an assignment of rights and obligations that is different from or inconsistent with this chapter. Such agreements shall supersede the terms of this chapter.

(g) Nothing in this chapter shall make a notice recipient a responsible party, beyond the obligations the notice recipient undertakes pursuant to this chapter.

(h) Nothing in this chapter shall apply to causes of action for wrongful death or personal injury. However, the pleading of a cause of action for wrongful death or personal injury shall not affect the

applicability of this chapter to other causes of action in the same civil action.

854. A commitment statement shall be executed in substantially the following form:

| | |
|---|---|
| COUNTY OF ________<br>STATE OF<br>CALIFORNIA | NOTICE OF ASSUMPTION OF<br>GOVERNMENT IMPOSED SITE<br>INVESTIGATION AND/OR<br>REMEDIAL ACTION ORDERS<br>("COMMITMENT STATEMENT") |

(a) The undersigned notice recipient is aware of, or has received a notice of potential liability pursuant to, Section 851 of the Civil Code ("notice of potential liability") in connection with a release of hazardous materials at a parcel of property ("site") having the following legal description: (Insert description here)

(b) The undersigned notice recipient and the undersigned owner of the site and the owner's successors, heirs, and assigns agree, upon the proper and timely execution and delivery of this commitment statement, to abide by the requirements of Chapter 3 (commencing with Section 850) of Title 3 of Part 2 of Division 2 in connection with the release that is the subject of the notice of potential liability.

(c) The undersigned notice recipient hereby commits to undertake any response action as required by an oversight agency through a written action, directed to the owner or notice recipient, in connection with the release that is the subject of the notice of potential liability or release report. This commitment runs with the land and binds, in addition to the current owner of the site, all of the owner's successors in interest, including current and future lenders having a security interest in the site.

(d) The owner of the site and the owner's successors, heirs, and assigns agree, upon the proper and timely execution and delivery of this commitment statement, to all of the following:

(1) The undersigned notice recipient or the party's designee shall be allowed such access to the site as may be required to perform its obligations under this commitment statement, provided that the undersigned notice recipient shall be liable for any physical damage it causes in conducting a response action, which the notice recipient fails to repair within a reasonable period after completion of all onsite activities.

(2) The parties, their successors, heirs, and assigns shall provide each other with copies of any communication or correspondence with an oversight agency in connection with the release of hazardous materials at the site.

(3) Provided that the undersigned notice recipient performs all of its obligations under this commitment statement, and except as otherwise provided in subdivisions (c) and (e) of Section 852 of the

Civil Code, no claim for damages, accruing after the acceptance of the commitment statement, shall be brought against the undersigned notice recipient by the owner of the site or by the owner's successors, heirs, and assigns.

(e) The contents of this commitment statement shall be inadmissible evidence in any proceeding, as defined in Section 901 of the Evidence Code, except in an action to enforce this commitment statement to the extent that such contents would be admissible under other applicable law. This commitment statement may be enforced fully by the owner of the site and all parties identified in paragraph (b). There are no third-party beneficiary rights created by this commitment statement.

(f) The owner of the site shall provide a copy of this commitment statement to any prospective purchaser or lessee of the site until this commitment statement is terminated or until all response actions have been completed in accordance with the commitment statement.

(g) If the owner transfers the site, the owner shall notify the undersigned parties to this commitment statement, by mail, within 14 business days of the property transfer.

(h) As provided by law, this commitment statement shall become effective if the owner executes this commitment statement within 45 days from the date of issuance, in which case its terms shall go into effect upon receipt of that acceptance by the issuer of this commitment statement. If the owner rejects this commitment statement, the rejection shall be subject to the mediation provisions of subdivision (b) of Section 852.

(i) If at the end of two years from the date of acceptance of this commitment statement, an oversight agency has not issued a written action directed to the owner or notice recipient, the owner has 60 days in which he or she may terminate the commitment statement; and, in this event, it shall have no further force or effect.

______________________________ ______________________________

Notice recipient Date

(Notice recipient's name,
address, and telephone number)
(Notarial affidavit)

______________________________ ______________________________

Owner Date

(Owner's name, address,
and telephone number)
(Notarial affidavit)

855. The notification requirements of Section 851 shall not become effective until 180 days after the effective date of this chapter.

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## CHAPTER 874

An act to add Section 1812.5 to the Water Code, relating to water, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 11, 1997. Filed with Secretary of State October 12, 1997.]

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

SECTION 1. Section 1812.5 is added to the Water Code, to read:

1812.5. (a) The Legislature finds and declares all of the following:

(1) This section is an extraordinary measure being taken only because the proposed transfer of conserved water from the Imperial Irrigation District to the San Diego County Water Authority is a matter of statewide interest in that it addresses a significant need for water in the southern state through the conservation of water now being consumed there. The Legislature further finds and declares that this section is not to be regarded as setting a precedent for any other legislative action.

(2) California's use of Colorado River water is limited to its basic annual apportionment of 4.4 million acre-feet, plus one-half of any excess or surplus water from the Colorado River. However, California continues to use up to 5.3 million acre-feet by relying on surpluses and apportioned, but unused water within the Colorado River Basin, which is not a reliable water supply. The Secretary of the Interior has strongly urged California to develop a plan to enable it to live within its basic apportionment of 4.4 million acre-feet from the Colorado River.

(3) It is of vital state interest that every effort be made to ensure that the Colorado River Aqueduct continues to operate at its full capacity at fair and reasonable terms in order to minimize statewide disruptions from diminishing Colorado River supplies.

(4) Negotiations assisted by the director are underway in 1997 between the Metropolitan Water District of Southern California and the San Diego County Water Authority for the development of a long-term wheeling agreement whereby the San Diego County Water Authority would use the Colorado River Aqueduct to wheel conserved water from the Imperial Irrigation District.

(b) The director shall assist the Colorado River Board and the six California water agencies that derive water from the Colorado River in developing a plan to ensure that California can live within its

entitlement of 4.4 million acre-feet of water annually and to ensure that the needs of southern California for Colorado River water are met.

(c) (1) Notwithstanding any other provision of law, with regard to the proposed transfer of conserved water from the Imperial Irrigation District to the San Diego County Water Authority, using the Metropolitan Water District of Southern California's water conveyance facilities, including the Colorado River Aqueduct, if the San Diego County Water Authority and the Metropolitan Water District of Southern California have not reached an agreement in principle on the terms and conditions of the transfer of conserved water using the Metropolitan Water District of Southern California's water conveyance facilities on or before August 15, 1997, the director shall issue a formal recommendation within 30 days from that date, with regard to the appropriate terms and conditions of the transfer.

(2) The director, in issuing a recommendation regarding appropriate terms and conditions of the transfer, shall make those determinations prescribed by Section 1812.

(3) If the director's recommendations prescribed by Section 1812 are unacceptable to either the San Diego County Water Authority or the Metropolitan Water District of Southern California, that party may request a formal mediation process. If both parties agree to participate in the formal mediation process, the parties shall commence mediation within one month after the mediation request is made. If the parties cannot agree on a mediator, the director shall appoint a mediator or the director may serve as mediator. The San Diego County Water Authority and the Metropolitan Water District of Southern California shall reimburse the state for any General Fund money used in mediation entered into pursuant to this paragraph.

(d) No action taken pursuant to this section shall injure any legal user of water, and there shall be no shifting of costs for actions taken pursuant to this section to water users in any county in the State of California.

(e) 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. The Legislature finds and declares that a special statute is necessary and that a general statute cannot be made applicable, within the meaning of Section 16 of Article IV of the California Constitution, because of unique circumstances applicable to the transfer of conserved water from the Imperial Irrigation District to the San Diego County Water Authority, using the Metropolitan Water District of Southern California's water conveyance facilities. In order to ensure that the transfer is concluded in a timely manner, thereby providing necessary water to the San Diego area, a special statute is needed and a general statute cannot be made applicable.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning

of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to facilitate, on or before August 15, 1997, an agreement to transfer conserved water from the Imperial Irrigation District to the San Diego County Water Authority, using the Metropolitan Water District of Southern California's water conveyance facilities, including the Colorado River Aqueduct, thereby assuring an efficient redistribution of water resources, it is necessary that this act take effect immediately.

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## CHAPTER 875

An act to amend Sections 42847, 42889, and 48653 of, and to add Chapter 2.5 (commencing with Section 48100) to Part 7 of Division 30 of, the Public Resources Code, relating to solid waste.

[Approved by Governor October 11, 1997. Filed with Secretary of State October 12, 1997.]

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

SECTION 1. Section 42847 of the Public Resources Code is amended to read:

42847. If waste tires are cleaned up, the effects of the tires are abated, or, in the case of threatened pollution or nuisance, other necessary remedial action is taken by any governmental agency, the person or persons who unlawfully stored, stockpiled, or accumulated the waste tires or who unlawfully permitted the storage, stockpile, or accumulation of waste tires or who threatened to cause or permit the unlawful storage, stockpile, or accumulation of waste tires shall be liable to that governmental agency to the extent of the reasonable costs actually incurred in cleaning up the waste, abating the effects thereof, or taking other remedial actions. The amount of those costs shall be recoverable in a civil action by, and paid to, the governmental agency and the board to the extent of the latter's contribution to the cleanup costs from available funds. The board shall seek recovery of its costs if that recovery is feasible.

SEC. 2. Section 42889 of the Public Resources Code is amended to read:

42889. The money in the fund shall, upon order of the Controller, be drawn therefrom for the payment of refunds under this chapter. The balance of the money in the fund shall be appropriated in the annual Budget Act to the board for expenditure for the following purposes:

(a) To pay the costs of administration of this chapter, not to exceed 5 percent of the total revenue deposited in the fund annually.

(b) In addition to payments authorized by subdivision (a), to pay the costs of administration associated with collection, making refunds, and auditing revenues in the fund, not to exceed 3 percent of the total revenue deposited in the fund, as provided in subdivision (b) of Section 42885.

(c) To pay the costs associated with operating the tire recycling program specified in Article 3 (commencing with Section 42870).

(d) To pay the costs associated with the development and enforcement of regulations relating to the storage of waste tires.

(e) To pay the costs of cleanup, abatement, or other remedial action related to the disposal of used whole tires.

(f) To make studies and conduct research directed at promoting and developing alternatives to the landfill disposal of used whole tires.

(g) To pay the costs associated with a statewide shredding program at authorized landfills and solid waste transfer stations.

(h) To pay the offsetting costs associated with a purchase preference granted by the state for materials manufactured from recycled tires, not to exceed one hundred thousand dollars ($100,000) annually.

(i) To pay the cost associated with implementing and operating a waste tire hauler program pursuant to Chapter 19 (commencing with Section 42950).

(j) To pay the costs associated with implementing and operating the Farm and Ranch Solid Waste Cleanup and Abatement Grant Program established pursuant to Chapter 2.5 (commencing with Section 48100) of Part 7.

SEC. 3. Chapter 2.5 (commencing with Section 48100) is added to Part 7 of Division 30 of the Public Resources Code, to read:

## CHAPTER 2.5. FARM AND RANCH SOLID WASTE CLEANUP AND ABATEMENT GRANT PROGRAM

48100. (a) The legislature hereby finds and declares that illegal disposal of solid waste on property owned by innocent parties is a longstanding problem needing attention and that grants provided under this chapter will support the cleanup of farm and ranch property.

(b) On or before January 1, 1999, the board shall establish a farm and ranch solid waste cleanup and abatement grant program under which cities and counties may seek financial assistance for the purposes of cleaning up and abating the effects of illegally disposed solid waste pursuant to this chapter.

(c) (1) The Farm and Ranch Solid Waste Cleanup and Abatement Account is hereby created in the General Fund and may be expended by the board, upon appropriation by the Legislature in the annual Budget Act, for the purposes of this chapter.

(2) The following funds shall be deposited into the account:

(A) Money appropriated by the Legislature from the Integrated Waste Management Fund, the California Tire Recycling Management Fund, or the California Used Oil Recycling Fund to the board for the grant program.

(B) Notwithstanding Section 16475 of the Government Code, any interest earned on the money in the account.

(3) The board may expend the money in the account for both of the following purposes:

(A) To pay the costs of implementing this chapter, which costs shall not exceed 7 percent of the funds available for the grant program.

(B) To make payments to cities and counties for grants authorized by this chapter.

(4) Upon authorization by the Legislature in the annual Budget Act, the sum of all funds transferred into the account from other funds or accounts shall not exceed one million dollars ($1,000,000) annually.

(5) Notwithstanding any other provision of law, the grant program shall be funded from the following funds:

(A) The Integrated Waste Management Fund.

(B) The California Tire Recycling Management Fund.

(C) The California Used Oil Recycling Fund.

48101. (a) The grant program shall be established to make grants available to cities and counties for the purposes described in subdivision (b) of Section 48100 in an amount not to exceed the sum of fifty thousand dollars ($50,000) per year for any single city or county, and not to exceed ten thousand dollars ($10,000) for any single cleanup or abatement project. Administrative costs of the city or county shall not exceed 3 percent of the grant.

(b) The board shall give priority to the provision of grants to cities and counties that have established innovative and cost-effective programs designed to discourage the illegal disposal of solid waste and to encourage the proper disposal of solid waste in permitted solid waste disposal facilities.

(c) A grant agreement between the board and a city or county may provide for, but is not limited to, all of the following provisions:

(1) Site-specific cleanup and removal of solid waste that is illegally disposed on farm or ranch property.

(2) Comprehensive, ongoing enforcement programs for the cleanup and removal of solid waste that is illegally disposed of on farm or ranch property.

(3) Waiver of tipping fees or other solid waste fees at permitted solid waste facilities for solid waste that was illegally disposed of on farm or ranch property.

(d) (1) Until such time that the board adopts regulations for the grant program pursuant to Section 48103, any fine levied on, or abatement order issued against, a farm or ranch property owner by a local enforcement agency or other local agency prior to January 1,

1998, if the fine has not been paid or the abatement order fulfilled as of January 1, 1998, or levied or issued, as the case may be, on and after January 1, 1998, but prior to adoption of the regulations, as a result of solid waste disposed of on the owner's ranch or farm property shall be stayed if (1) the local agency makes a decision that the property owner was not responsible for the dumping or (2) the property owner has filed a written appeal of the local agency's decision to the board and the board's decision on the matter is pending.

(2) On and after the adoption of grant program regulations by the board, any fines levied on, or abatement orders issued against, a farm or ranch owner by the local enforcement agency or other local agency as the result of solid waste disposed of on the owner's farm or ranch property, regarding which the owner has made application to a city or county for a grant under this chapter, shall, upon the owner's written request to the local enforcement agency or other local agency, be stayed if (1) the local agency makes a decision that the property owner was not responsible for the dumping or (2) the property owner has filed a written appeal of the local agency's decision to the board and the board's decision on the matter is pending.

48102. No farm or ranch property owner shall be eligible for a grant pursuant to this chapter if it is determined by the city or county that the owner was responsible for the illegal disposal of the solid waste.

48103. (a) The board shall adopt regulations to implement this chapter.

(b) The regulations adopted pursuant to this section shall include criteria for grant eligibility and shall establish a process that is open and accessible to the public under which grant applications may be reviewed, ranked, and awarded. The regulations shall also develop a process for a farm or ranch property owner to appeal a city's or county's determination of responsibility pursuant to Section 48102.

(c) If a local agency denies a grant application, it shall notify the farm or ranch property owner in writing as to why the application was denied.

(d) Nothing in this section is intended to prevent a farm or ranch property owner from receiving reimbursement for solid waste cleanup or abatement costs under the grant program or pursuant to any other law.

48104. (a) Each year, as part of the annual report required to be submitted pursuant to Section 40507, the board shall report to the Governor and the Legislature on the actions it has taken under the grant program and the number of illegal disposal sites that have been cleaned up and abated pursuant to the grant program.

(b) On or before January 1, 2001, the board shall review the grant program and report to the Governor and the Legislature on its costs and effectiveness in cleaning up and abating solid waste illegally

disposed of on farm or ranch property. The report shall include all of the following information:

(1) The number of sites that have been cleaned up in each county.

(2) The types of solid waste cleaned up.

(3) The number of sites not approved for the grant program, and the reasons for that disapproval.

(4) The number of participant cities and counties.

(5) The types of property on which solid waste has been cleaned up or abated.

48105. All solid waste collected by a city or county as a result of cleanup or abatement under the grant program shall be recycled or reused to the maximum extent feasible and cleanup or abatement activities shall be conducted in compliance with existing laws governing the handling of solid wastes, hazardous wastes, liquid wastes, or medical wastes, as appropriate.

48106. Nothing in this chapter is intended to relieve any party who is responsible for the generation or illegal deposition of the solid waste from liability for removal costs if the party can be identified. Farm or ranch property owners whose property is the subject of solid waste cleanup or abatement under this chapter and who are not responsible for the generation or deposition of the solid waste shall not be subject to any cost recovery action for cleanup or abatement costs borne by cities or counties or the board under this chapter.

SEC. 4. Section 48653 of the Public Resources Code is amended to read:

48653. The board shall deposit all amounts paid pursuant to Section 48650 by manufacturers, civil penalties, or fines paid pursuant to this chapter, and all other revenues received pursuant to this chapter into the California Used Oil Recycling Fund, which is hereby created in the State Treasury. Notwithstanding Section 13340 of the Government Code, the money in the fund is to be appropriated solely as follows:

(a) Continuously appropriated to the board for expenditure for the following purposes:

(1) To pay recycling incentives pursuant to Section 48651.

(2) To provide a reserve for contingencies, as may be available after making other payments required by this section, in an amount not to exceed one million dollars ($1,000,000).

(3) To make block grants for the implementation of local used oil collection programs adopted pursuant to Article 10 (commencing with Section 48690) to cities, based on the city's population, and counties, based on the population of the unincorporated area of the county, in a total annual amount equal to ten million dollars ($10,000,000) or half of the amount which remains in the fund after the expenditures are made pursuant to paragraphs (1) to (3), inclusive, and subdivision (b), whichever amount is greater, multiplied by the fraction equal to the population of cities and counties which are eligible for block grants pursuant to Section 48690,

divided by the population of the state. The board shall use the latest population estimates of the state generated by the Population Research Unit of the Department of Finance in making the calculations required by this paragraph.

(4) For expenditures pursuant to Section 48656.

(b) The money in the fund may be expended by the board for the administration of this chapter and by the department for inspections and reports pursuant to Section 48661, only upon appropriation by the Legislature in the annual Budget Act.

(c) The money in the fund may be transferred to the Farm and Ranch Solid Waste Cleanup and Abatement Account in the General Fund, upon appropriation by the Legislature in the annual Budget Act, to pay the costs associated with implementing and operating the Farm and Ranch Solid Waste Cleanup and Abatement Grant Program established pursuant to Chapter 2.5 (commencing with Section 48100).

(d) Appropriations to the board to pay the costs necessary to administer this chapter, including implementation of the reporting, monitoring, and enforcement program pursuant to subdivision (d) of Section 48631, shall not exceed three million dollars ($3,000,000) annually.

(e) The Legislature hereby finds and declares its intent that the sum of two hundred fifty thousand dollars ($250,000) should be annually appropriated from the California Used Oil Recycling Fund in the annual Budget Act to the board, commencing with fiscal year 1996–97, for the purposes of Section 48655.

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## CHAPTER 876

An act relating to earthquake protection.

[Approved by Governor October 11, 1997. Filed with Secretary of State October 12, 1997.]

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

SECTION 1. (a) The Legislature hereby finds and declares that the San Marino High School in Los Angeles County is located near the Raymond Hill Fault.

(b) The San Gabriel County Water District shall not enlarge or construct any water storage facility system that is uphill of, and within 1,000 feet of, the San Marino High School unless, after receipt of payment for the filing fee pursuant to Section 6300 of the Water Code, the Division of Safety of Dams of the Department of Water Resources certifies in writing that the facility meets the requirements normally applied to facilities approved pursuant to Division 3 (commencing with Section 6000) of the Water Code. Section 6028 of

the Water Code shall apply to any determination made by the Division of Safety of Dams pursuant to this section.

(c) In the event that the Division of Safety of Dams approves an application for approval of the water storage facility without requiring substantive changes in the design of the facility, the City of San Marino and the San Marino Unified School District shall jointly reimburse the San Gabriel County Water District for the full amount of the application filing fee. If the Division of Safety of Dams requires substantive facility changes, no such reimbursement shall be required.

(d) This section shall apply to the enlargement or construction of any water storage facility system, including any enlargement or construction that commenced prior to January 1, 1998.

(e) Any decision or certification made by the Division of Safety of Dams pursuant to this section shall be final and not subject to judicial review, unless it is determined by clear and convincing evidence that the decision or certification was arbitrary and capricious.

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.

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## CHAPTER 877

An act to amend Section 8700 of, and to add and repeal Article 5 (commencing with Section 52760) of Chapter 11 of Part 28 of, the Education Code, relating to education.

[Approved by Governor October 11, 1997. Filed with Secretary of State October 12, 1997.]

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

SECTION 1. Section 8700 of the Education Code is amended to read:

8700. The Legislature finds and declares that, throughout the state and nation, there is a growing public awareness of the benefits derived from a healthy environment and a healthy economy, and that the citizens of the State of California expect the educational institutions of this state to provide students with educational

materials that are balanced and objective in their coverage of the current scientific and economic research on environmental and ecological issues to enable students to better address and assess environmental issues as we enter the 21st century.

SEC. 2. Article 5 (commencing with Section 52760) is added to Chapter 11 of Part 28 of the Education Code, to read:

### Article 5. The Life Sciences and Conservation Education Project of 1998

52760. (a) The Life Sciences and Conservation Education Project of 1998 is hereby established to provide pupils in grades 6, 7, and 8 with opportunities to increase their understanding of biological sciences and the interdependence of living things, through the study of biological conservation and public policy issues. This project shall be administered by the Superintendent of Public Instruction, and shall consist of a statewide competition in which each public elementary school and junior high school or middle school in California that is attended by pupils in grade 6, 7, or 8 is encouraged to do both of the following:

(1) Begin a classroom project to educate fellow pupils and the community about the various benefits that a specific local wildlife species, river, creek, wetland, or other natural resource provides the local community. If applicable, the classroom project shall identify any impacts to the natural resource.

(2) Develop a plan for cooperative action to resolve the identified impacts in order to conserve the natural resource.

(b) Exemplary projects shall be selected for special recognition by the panel established pursuant to subdivision (b) of Section 52762.

52761. (a) Each elementary school and junior high school or middle school participating in the project shall submit to the superintendent a proposal, which shall include all of the following:

(1) A description of the plant, animal, river, creek, wetlands, or other natural area that the pupils have selected.

(2) A description of strategies that the pupils plan to use to educate other pupils and members of the community about the various benefits of a specific local wildlife species, river, creek, wetland, or other natural area and to identify any impacts to that natural resource. Strategies may include, but need not be limited to, exhibits, art work, public education forums, media events, oral presentations, drama, and writing projects.

(3) An action plan designed to monitor and promote the conservation of the selected wildlife species or natural area, while seeking collaborative ways to resolve the identified impacts.

(b) Each participating school shall select a wildlife species or natural area based on the close proximity of the plant, animal, river, creek, wetlands, or other natural area, the feasibility of studying it,

and the effectiveness of the course of action that might occur to preserve the species or area.

(c) Pupils shall be encouraged to use appropriate local and state resources, including science faculty and students in postsecondary education institutions and educational materials that are balanced and objective in their coverage of the current scientific and economic research on environmental and conservation issues, to obtain information to assist them in the selection of wildlife species or natural areas and the development of their proposals.

(d) School faculty and any advisers to pupils engaged in a wildlife or natural area conservation project pursuant to the Life Sciences and Conservation Education Project of 1998 shall ensure that pupils gain a full understanding and appreciation of the rights and responsibilities of public and private property owners under the Constitutions of the United States and California. Any projects or strategies undertaken pursuant to the Life Sciences and Conservation Education Project of 1998 shall respect the rights of private landowners and shall strive to build cooperative relationships within the community to protect local wildlife populations or natural areas.

(e) Pupils participating in the Life Sciences and Conservation Education Project of 1998 shall not as part of the project engage in activities for the purposes of influencing legislative or administrative action.

52762. The Superintendent of Public Instruction shall do all of the following:

(a) Develop and distribute, to each school district and county office of education that operates an elementary school or junior high school or middle school that is attended by pupils in grade 6, 7, or 8, the forms and guidelines necessary to submit a proposal as described in Section 52761. The guidelines shall include, but need not be limited to, a list of local and state resources that may be of assistance to participating pupils, and the criteria that will be used to select exemplary proposals for special recognition.

(b) Establish a panel of three teachers and one pupil to review and select exemplary proposals submitted by classes participating in the program.

(c) Develop and distribute certificates of commendation for members of the panel established pursuant to subdivision (b), certificates of recognition for all schools that submit a proposal, and certificates of commendation for proposals that are selected as exemplary. To the extent feasible, the superintendent shall, in addition, issue a press release to publicize the competition, make the exemplary proposals available for distribution to other public schools, and disseminate information about the Life Sciences and Conservation Education Project of 1998 to appropriate science or environmental education organizations and publications.

52764. (a) This article shall become inoperative on June 30, 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.

(b) This article shall not become operative unless and until the Superintendent of Public Instruction certifies, in writing, to the Secretary of State that sufficient funds for its implementation have been appropriated in the annual Budget Act or other legislation.

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## CHAPTER 878

An act to add Chapter 12 (commencing with Section 8500) to Part 2 of Division 2 of the Revenue and Taxation Code, relating to transportation.

[Approved by Governor October 11, 1997. Filed with Secretary of State October 12, 1997.]

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

SECTION 1. Chapter 12 (commencing with Section 8500) is added to Part 2 of Division 2 of the Revenue and Taxation Code, to read:

### CHAPTER 12. METROPOLITAN TRANSPORTATION COMMISSION

8500. Except when the context otherwise requires, the definitions given in this chapter govern the construction of this chapter.

8501. As used in this chapter, the following definitions have the following meanings:

(a) "Commission" means the Metropolitan Transportation Commission created by Title 7.1 (commencing with Section 66500) of the Government Code.

(b) "Region" means the region comprising the commission's jurisdiction, prescribed by Section 66502 of the Government Code.

(c) "Bonds" means indebtedness and securities of any kind or class, including bonds, notes, bond anticipation notes, and commercial paper.

8502. The commission may impose, in addition to any other tax authorized by this division, a tax on the privilege of selling within the region, motor vehicle fuel, as defined by Section 7304. The tax shall not apply to motor vehicle fuel used to power aircraft. The tax shall be levied at a rate established by the commission, but not exceeding ten cents ($0.10) per gallon. Commencing on January 1 of the year following the election approving the tax, the tax may be imposed for a period not to exceed 20 years.

8503. (a) Prior to imposing the tax, the commission shall adopt a regional transportation expenditure plan for the revenues derived from the tax. The regional transportation expenditure plan shall describe specific proposed transportation projects and the estimated cost of each project.

(b) The regional transportation expenditure plan shall also meet the following minimum objectives and criteria:

(1) Project expenditures shall reflect an equitable distribution of revenues throughout the region with not less than 95 percent of revenues from each county, based on population, being invested over the 20-year life of the tax in projects attributable to that county. In addition, during every five-year period, no less than 80 percent of the revenues from each county, based on population, invested during that period shall be invested in projects attributable to that county. The commission shall allocate any accrued interest according to the same formula. At the time of the development of the expenditure plan, the commission shall use population data from the most recent United States census, and shall take into account estimated increases in population over the 20-year period projected by the Association of Bay Area Governments.

(2) Projects included in the expenditure plan shall be consistent with the commission's regional transportation plan, a congestion management program, or a countywide transportation plan. The commission shall, in prioritizing projects in the expenditure plan, give additional consideration to projects where local land use policies reduce dependence on single-occupant motor vehicle travel. The expenditure plan development process shall include consultation with cities, counties, transit operators, congestion management agencies, and other interested groups.

(3) Cost estimates for each project shall be prepared by the commission, in consultation with project sponsors, and verified by an independent cost-estimating firm retained by the commission for that purpose. Estimates of other funding required to complete any project shall be based on an estimate of funds reasonably expected to be available during the 20-year period commencing with the year that the tax is initially imposed.

(4) To be eligible for inclusion in the expenditure plan, a project shall meet at least one of the following regional transportation needs:

(A) Fund maintenance and rehabilitation of local streets and roads, sidewalks, or bicycle routes, or close a gap in the local street and road system.

(B) Fund capital or operating expenses of public transit systems.

(C) Fund rail extension projects in the commission's Resolution 1876, Tier I funding plan, dated February 26, 1992, as contained in the commission's regional transportation plan.

(D) Provide an alternative to single occupancy automobile travel.

(E) Improve safety on specific roadway segments where accident or fatality rates exceed the expected rate for those segments over a

multiyear timeframe, including, but not limited to, expansion or realignment of the roadway.

(F) Improve the operational efficiency of the existing roadway system without a physical expansion of the system. However, expansion projects to reconfigure existing interchanges are eligible for inclusion in the plan.

(G) Fund implementation of the requirements of the federal Americans with Disabilities Act of 1990 (P.L. 101-336), or those requirements as revised, on public transit systems and other transportation-related facilities.

(H) Fund seismic retrofitting of transportation facilities, except toll bridges.

(I) Fund intermodal freight or passenger facilities.

(J) Fund transportation enhancement activities, as defined in subsection (a) of Section 101 of Title 23 of the United States Code.

(K) Defray interest costs and other expenses associated with the issuance of revenue bonds or revenue anticipation notes.

(5) If not otherwise available, sufficient funding shall be included in the cost estimates and expenditure plan presented to the voters to operate and maintain each included project for the duration of the tax.

8504. Following the adoption by the commission of a regional transportation expenditure plan, the board of supervisors of each county and city and county in the region shall, upon the request of the commission, submit to the voters at a local election consolidated with a statewide primary or general election specified by the commission, a measure, adopted by the commission, authorizing the commission to impose the tax throughout the region. The commission shall reimburse each county and city and county in the region for the cost of submitting the measure to the voters. These costs shall be reimbursed from revenues derived from the tax if the measure is approved by the voters and from any available funds of the commission if the measure is not approved. The board of supervisors of a county or city and county may elect not to submit the measure adopted by the commission to the voters if it submits an alternative countywide transportation funding measure to the voters at the same election.

8505. Upon approval of the measure by the margin of voters within the region voting at a local election as determined necessary by the California Constitution or other applicable statutory provisions, the commission may impose the tax in all counties in the region in which the measure appeared on the ballot.

8506. The commission shall contract with the State Board of Equalization for the administration of any tax imposed under this chapter, and the board shall be reimbursed for its actual cost in the administration of the tax and for its actual cost of preparation to administer the tax based upon an independent audit.

8507. The State Board of Equalization shall adopt the necessary rules and regulations to administer the tax.

8508. After deducting its cost of administering the tax, the State Board of Equalization shall periodically transmit the net revenues to the commission as promptly as possible. Transmittal of those revenues shall be made at least twice in each calendar quarter.

8509. The net revenues received by the commission shall be expended only in accordance with the regional transportation expenditure plan adopted pursuant to Section 8503, except that the commission may deduct from those revenues funds to reimburse it for expenses incurred in the initial implementation of this chapter, and thereafter, its cost of administration, not to exceed 1 percent of annual net revenues.

8510. In order to be eligible for funds derived from the tax, project sponsors shall comply with all applicable commission rules and regulations including, but not limited to, those adopted pursuant to Section 66516 of the Government Code and Sections 99244 and 99246 of the Public Utilities Code. In consultation with cities, counties, transit operators, congestion management agencies, and other interested groups, the commission shall also develop and implement a program to ensure that project sponsors expend funds derived from the tax in an efficient and effective manner. No operating or maintenance funding provided from the tax shall be used to supplant any funds within the discretionary control of the recipient agency that are used for existing transportation operating or maintenance activities.

8511. The commission's regional transportation expenditure plan shall include a process of ensuring periodic public review of the progress of the regional transportation expenditure plan and citizen oversight.

8512. The commission may, by a two-thirds vote, amend the regional transportation expenditure plan after a minimum of two public hearings in accordance with Section 8511. Any amendment shall comply with all of the requirements for the plan prescribed by this chapter.

8513. (a) If requested to do so by the commission in its resolution calling for an election, the board of supervisors, as part of the ballot proposition to approve the imposition of the tax, shall include authorization for the commission to issue bonds for capital outlay expenditures as may be provided for in the ordinance expenditure plan payable from the proceeds of the tax.

(b) The maximum bonded indebtedness that may be outstanding at any one time shall be an amount equal to the sum of the principal of, and interest on, the bonds, but not to exceed the estimated proceeds of the tax, as determined by the plan. The amount of bonds outstanding at any one time does not include the amount of bonds, refunding bonds, or bond anticipation notes for which funds

necessary for the payment thereof have been set aside for that purpose in a trust or escrow account.

(c) The proposition shall set forth each of the following:

(1) The actual percent of the tax.

(2) The duration of the tax if the plan specifies a time limit.

(3) The amount of bonds, if any, payable from the proceeds of the tax.

(4) The commission as the agency imposing the tax.

(5) The appropriations limit of the commission, pursuant to Section 4 of Article XIII B of the California Constitution.

(d) The sample ballot to be mailed to the voters, pursuant to Section 13303 of the Elections Code, shall be the full proposition, as set forth in the ordinance calling the election, and the voter information handbook shall include the entire ordinance expenditure plan.

8514. (a) The bonds authorized by the voters concurrently with the approval of the tax may be issued at any time by the commission and shall be payable from the proceeds of the tax. The bonds shall be referred to as "limited tax bonds."

The bonds may be secured by a pledge of revenues from the proceeds of the tax.

(b) The pledge of the tax to the limited tax bonds authorized under this chapter shall have priority over the use of any of the tax for "pay-as-you-go" financing, except to the extent that this priority is expressly restricted in the resolution authorizing the issuance of the bonds.

8515. Limited tax bonds shall be issued pursuant to a resolution adopted at any time by a two-thirds vote of the commission. Each resolution shall provide for the issuance of bonds in the amounts as may be necessary, until the full amount of bonds authorized have been issued. The full amount of bonds may be divided into two or more series and different dates of payment fixed for the bonds of each series. A bond need not mature on its anniversary date.

8516. (a) A resolution authorizing the issuance of bonds shall state all of the following:

(1) The purposes for which the proposed debt is to be incurred, which may include all costs and estimated costs incidental to, or connected with, the accomplishment of those purposes, including, without limitation, engineering, inspection, legal, fiscal agent, financial consultant and other fees, bond and other reserve funds, working capital, bond interest estimated to accrue during the construction period and for a period not to exceed three years thereafter, and expenses of all proceedings for the authorization, issuance, and sale of the bonds.

(2) The estimated cost of accomplishing those purposes.

(3) The amount of the principal of the indebtedness.

(4) The maximum term the bonds proposed to be issued shall run before maturity, which shall not be beyond the date of termination of the imposition of the tax.

(5) The maximum rate of interest to be paid, which shall not exceed the maximum allowable by law.

(6) The denomination or denominations of the bonds, which shall not be less than five thousand dollars ($5,000).

(7) The form of the bonds, including, without limitation, registered bonds and coupon bonds, to the extent permitted by federal law, and the form of any coupons to be attached thereto, the registration, conversion, and exchange privileges, if any, pertaining thereto, and the time when all of, or any part of, the principal becomes due and payable.

(b) The resolution may also contain any other matters authorized by this chapter or any other law.

8517. The bonds shall bear interest at a rate or rates not exceeding the maximum allowable by law, payable at intervals determined by the commission, except that the first interest payable on the bonds, or any series thereof, may be for any period not exceeding one year, as determined by the commission.

8518. In the resolution authorizing the issuance of the bonds, the commission may also provide for the call and redemption of the bonds prior to maturity at the times and prices and upon other terms as specified. However, no bond is subject to call or redemption prior to maturity, unless it contains a recital to that effect or unless a statement to that effect is printed.

8519. The principal of, and interest on, the bonds shall be payable in lawful money of the United States at the office of the treasurer of the commission, or at other places as may be designated, or at both the office and other places at the option of the holders of the bonds.

8520. The bonds, or each series thereof, shall be dated and numbered consecutively and shall be signed by the chairperson or vice chairperson of the commission and the auditor-controller of the commission, and the official seal, if any, of the commission shall be attached.

The interest coupons of the bonds shall be signed by the auditor-controller of the commission. All of the signatures and seal may be printed, lithographed, or mechanically reproduced.

If any officer whose signature appears on the bonds or coupons ceases to be that officer before the delivery of the bonds, the officer’s signature is as effective as if the officer had remained in office.

8521. The bonds may be sold as the commission determines by resolution, and the bonds may be sold at a price below par, whether by negotiated or public sale.

8522. Delivery of any bonds may be made at any place either inside or outside the state, and the purchase price may be received in cash or bank credits.

8523. All accrued interest and premiums received on the sale of the bonds shall be placed in the fund to be used for the payment of the principal of, and interest on, the bonds, and the remainder of the proceeds of the bonds shall be placed in the treasury of the commission and applied to secure the bonds or for the purposes for which the debt was incurred. However, when the purposes have been accomplished, any money remaining shall be either (a) transferred to the fund to be used for the payment of principal of, and interest on, the bonds or (b) placed in a fund to be used for the purchase of the outstanding bonds in the open market at prices and in the manner, either at public or private sale or otherwise, as determined by the commission. Bonds so purchased shall be canceled immediately.

8524. (a) The commission may provide for the issuance, sale, or exchange of refunding bonds to redeem or retire any bonds issued by the commission upon the terms, at the times, and in the manner which it determines.

(b) Refunding bonds may be issued in a principal amount sufficient to pay all, or any part of, the principal of the outstanding bonds, the premiums, if any, due upon call and redemption thereof prior to maturity, all expenses of the refunding, and either of the following:

(1) The interest upon the refunding bonds from the date of sale thereof to the date of payment of the bonds to be refunded out of the proceeds of the sale of the refunding bonds or to the date upon which the bonds to be refunded will be paid pursuant to call or agreement with the holders of the bonds.

(2) The interest upon the bonds to be refunded from the date of sale of the refunding bonds to the date of payment of the bonds to be refunded or to the date upon which the bonds to be refunded will be paid pursuant to call or agreement with the holder of the bonds.

(c) The provisions of this chapter for the issuance and sale of bonds apply to the issuance and sale of refunding bonds.

8525. (a) The commission may borrow money in anticipation of the sale of bonds which have been authorized pursuant to this chapter, but which have not been sold or delivered, and may issue negotiable bond anticipation notes therefor and may renew the bond anticipation notes from time to time. However, the maximum maturity of any bond anticipation notes, including the renewals thereof, shall not exceed five years from the date of delivery of the original bond anticipation notes.

(b) The bond anticipation notes, and the interest thereon, may be paid from any money of the commission available therefor, including the revenues from the tax. If not previously otherwise paid, the bond anticipation notes, or any portion thereof, or the interest thereon, shall be paid from the proceeds of the next sale of the bonds of the commission in anticipation of which the notes were issued.

(c) The bond anticipation notes shall not be issued in any amount in excess of the aggregate amount of the bonds which the commission has been authorized to issue, less the amount of any bonds of the authorized issue previously sold, and also less the amount of other bond anticipation notes therefor issued and then outstanding. The bond anticipation notes shall be issued and sold in the same manner as the bonds.

(d) The bond anticipation notes and the resolutions authorizing them may contain any provisions, conditions, or limitations which a resolution of the commission may contain.

8526. Any bonds issued under this chapter are legal investment for all trust funds; for the funds of insurance companies, commercial and savings banks, and trust companies; and for state school funds; and whenever any money or funds may, by any law now or hereafter enacted, be invested in bonds of cities, counties, school districts, or other districts within the state, that money or those funds may be invested in the bonds issued under this chapter, and whenever bonds of cities, counties, school districts, or other districts within the state may, by any law now or hereafter enacted, be used as security for the performance of any act or the deposit of any public money, the bonds issued under this chapter may be so used. The provisions of this chapter are in addition to all other laws relating to legal investments and shall be controlling as the latest expression of the Legislature with respect thereto.

SEC. 2. Pursuant to Section 17579 of the Government Code, the Legislature finds that there is no mandate contained in this act that will result in costs incurred by a local agency or school district for a new program or higher level of service which require reimbursement pursuant to Section 6 of Article XIII B of the California Constitution and Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

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

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## CHAPTER 879

An act to add Section 48225.5 to the Education Code, relating to pupils.

[Approved by Governor October 11, 1997. Filed with
Secretary of State October 12, 1997.]

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

SECTION 1. Section 48225.5 is added to the Education Code, to read:

48225.5. (a) (1) Notwithstanding Section 48200, a pupil who holds a work permit to work for a period of not more than five consecutive days in the entertainment or allied industries shall be excused from school during the period that the pupil is working in the entertainment or allied industry for a maximum of up to five absences per school year.

(2) Notwithstanding Section 48200, a pupil shall be excused from school in order to participate with a not-for-profit performing arts organization in a performance for a public school pupil audience for a maximum of up to five days per school year provided the pupil's parent or guardian provides a written note to the school authorities explaining the reason for the pupil's absence.

(b) A pupil absent from school under this section shall be permitted to complete all assignments and tests missed during the absence that can be reasonably provided and, upon satisfactory completion, shall be given full credit therefor. The teacher of any class from which a pupil is absent shall determine, pursuant to the regulations of the governing board of the school district, or the county board of education, what assignments the pupil shall make up and in what period of time the pupil shall complete those assignments. The tests and assignments shall be reasonably equivalent to, but not necessarily identical to, the tests and assignments that the pupil missed during the absence.

(c) A pupil absent pursuant to paragraph (1) of subdivision (a) shall receive instruction during the period of the absence from a studio teacher certified by the Labor Commissioner holding credentials as defined in Section 11755 of Title 8 of the California Code of Regulations. The instruction shall be offered between 7 a.m. and 4 p.m. for pupils in kindergarten and grades 1 to 6, inclusive, and between 7 a.m. and 7 p.m. for pupils in grades 7 to 12, inclusive. The school district or county superintendent of schools shall accept the work done by the pupil and the grades given to the pupil on that work and shall provide the pupil with credit for the instruction the pupil received from that teacher.

(d) At the request of a pupil excused from school pursuant to paragraph (1) of subdivision (a), the pupil may be permitted to enroll in a work experience program of the school district and shall receive appropriate academic credit for that work experience.

(e) This section shall apply to all pupils, whether a pupil is enrolled in regular classes or special education classes, a regional occupational program or center, or a program of independent study, or any other program of the school district or county superintendent of schools.

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.

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## CHAPTER 880

An act to add Section 3482.1 to the Civil Code, relating to nuisance.

[Approved by Governor October 11, 1997. Filed with Secretary of State October 12, 1997.]

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

SECTION 1. Section 3482.1 is added to the Civil Code, to read:

3482.1. (a) As used in this section:

(1) "Person" means an individual, proprietorship, partnership, corporation, club, or other legal entity.

(2) "Sport shooting range" or "range" means an area designed and operated for the use of rifles, shotguns, pistols, silhouettes, skeet, trap, black powder, or any other similar sport or law enforcement training purpose.

(3) "Indoor shooting range" means a totally enclosed facility designed to offer a totally controlled shooting environment that includes impenetrable walls, floor and ceiling, adequate ventilation and lighting systems, and acoustical treatment for sound attenuation suitable for the range's approved use.

(4) "Nighttime" means between the hours of 10 p.m. and 7 a.m.

(b) (1) Notwithstanding any other provision of law, a person who operates or uses a sport shooting range in this state shall not be subject to civil liability or criminal prosecution in any matter relating to noise or noise pollution resulting from the operation or use of the range if the range is in compliance with any noise control laws or ordinances that applied to the range and its operation at the time construction or operation of the range was approved by a local public entity having jurisdiction in the matter, or if there were no such laws or ordinances that applied to the range and its operation at that time.

(2) A person who operates or uses a sport shooting range or law enforcement training range is not subject to an action for nuisance, and a court shall not enjoin the use or operation of a range, on the basis of noise or noise pollution if the range is in compliance with any

noise control laws or ordinances that applied to the range and its operation at the time construction or operation of the range was approved by a local public entity having jurisdiction in the matter, or if there were no such laws or ordinances that applied to the range and its operation at that time.

(3) Rules or regulations adopted by any state department or agency for limiting levels of noise in terms of decibel level which may occur in the outdoor atmosphere shall not apply to a sport shooting range exempted from liability under this section.

(c) A person who acquires title to or who owns real property adversely affected by the use of property with a permanently located and improved sport shooting range may not maintain a nuisance action with respect to noise or noise pollution against the person who owns the range to restrain, enjoin, or impede the use of the range where there has been no substantial change in the nature of the use or the range. This section does not prohibit actions for negligence or recklessness in the operation of the range or by a person using the range.

(d) A sport shooting range that is in operation and not in violation of existing law at the time of the enactment of an ordinance described in subdivision (b) shall be permitted to continue in operation even if the operation of the sport shooting range at a later date does not conform to a new ordinance or an amendment to an existing ordinance if there has been no substantial change in the nature or use of the range. Nothing in this section shall be construed to limit the authority of a local agency to enforce any term of a conditional use permit.

(e) Except as otherwise provided in this section, this section does not prohibit a local public entity having jurisdiction in the matter from regulating the location and construction of a sport shooting range after the effective date of this section.

(f) Except as otherwise provided in this section, this section does not prohibit a local public entity having jurisdiction in the matter from requiring that noise levels at the nearest residential property line to a range not exceed the level of normal city street noise which shall not be more than 60 decibels for nighttime shooting. The subdivision does not abrogate any existing local standards for nighttime shooting. The operator of a sport shooting range shall not unreasonably refuse to use trees, shrubs, or barriers, when appropriate, to mitigate the noise generated by nighttime shooting. For the purpose of this section, a reasonable effort to mitigate is an action that can be accomplished in a manner and at a cost that does not impose an unreasonable financial burden upon the operator of the range.

(g) This section does not apply to indoor shooting ranges.

(h) This section does not apply to a range in existence prior to January 1, 1998, that is operated for law enforcement training purposes by a county of the sixth class if the range is located without

the boundaries of that county and within the boundaries of another county. This subdivision shall become operative on July 1, 1999.

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## CHAPTER 881

An act to add Section 50517.8 to the Health and Safety Code, relating to housing, and making an appropriation therefor.

[Approved by Governor October 11, 1997. Filed with Secretary of State October 12, 1997.]

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

SECTION 1. Section 50517.8 is added to the Health and Safety Code, to read:

50517.8. A household deemed eligible by the United States Department of Agriculture, under the Rural Housing Loan Program of Section 502 of Title V of the Housing Act of 1949 (42 U.S.C. Sec. 1472 et seq.), on the basis of the household's ratio of housing costs to household income shall be deemed eligible for a grant pursuant to this chapter notwithstanding the department's calculation of the ratio of housing costs to income utilizing different and additional housing cost factors.

SEC. 2. (a) The sum of four million dollars ($4,000,000) appropriated as Item 2240-104-0927 in the Budget Act of 1997, shall be allocated for the following purposes:

(1) Three million dollars ($3,000,000) appropriated as Item 2240-104-0927 in the Budget Act of 1997, shall be allocated to the Farmworker Housing Grant Fund for the purposes set forth in Section 50517.5 of the Health and Safety Code. Sponsors utilizing funds appropriated pursuant to this act shall consider using participants in job training, vocational education, and welfare-to-work programs in development projects.

(2) One million dollars ($1,000,000) appropriated as Item 2240-104-0927 in the Budget Act of 1997, shall be allocated to the Farmworker Housing Grant Fund for two demonstration programs that finance the acquisition, construction, or rehabilitation of housing that provides farmworkers with affordable, durable, low-maintenance housing options. The department may waive any requirements of Section 50517.5 of the Health and Safety Code and any regulations promulgated thereunder that are inconsistent with prompt and effective implementation of the demonstration programs described in this item. The demonstration programs shall be as follows:

(A) A program establishing prototype portable housing units that incorporate design research and are factory constructed and that will be sited in or adjacent to a migrant farmworker community facility

in which job, housing, child care, health, and educational referrals are provided.

(B) A program containing other innovative models that are responsive to local needs, that bring together stakeholders to formulate appropriate local responses, that leverage grower and other private sector assistance, and that demonstrate the feasibility of innovative approaches to farmworker housing, including, but not limited to, dormitory and barracks-style housing, motel conversions, fast-track local permit approval of farmworker housing proposals, homeownership assistance and housing with scattered site management.

(C) The department shall submit a report on or before January 1, 1999, and on or before each January 1, thereafter, to the Legislature on the administration and implementation of the demonstration programs. The report shall include, but not be limited to, the following information:

(i) The number and type of housing units.

(ii) The cost of the housing units.

(iii) The department's administrative costs and budget for implementation and management.

(iv) Details of the implementation and success of the various components of the projects.

(b) The department shall use funds appropriated for purposes of subparagraphs (A) and (B) to maximize other local, state, federal, or private funds and may waive the requirement that the sponsor make a contribution if the department determines that the sponsor does not have the capability to make the contribution.

(c) Of the funds appropriated for the purpose authorized in paragraphs (1) and (2) of subdivision (a), no more than two hundred seventy thousand dollars ($270,000) may be expended in any fiscal year for costs of administering the programs authorized thereby.

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## CHAPTER 882

An act to amend Section 120335 of the Health and Safety Code, relating to communicable disease.

[Approved by Governor October 11, 1997. Filed with Secretary of State October 12, 1997.]

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

SECTION 1. Section 120335 of the Health and Safety Code is amended to read:

120335. (a) As used in Chapter 1 (commencing with Section 120325, but excluding Section 120380), and as used in Sections 120400, 120405, 120410, and 120415, the term "governing authority" means

the governing board of each school district or the authority of each other private or public institution responsible for the operation and control of the institution or the principal or administrator of each school or institution.

(b) The governing authority shall not unconditionally admit any person as a pupil of any private or public elementary or secondary school, child care center, day nursery, nursery school, family day care home, or development center, unless prior to his or her first admission to that institution he or she has been fully immunized. The following are the diseases for which immunizations shall be documented:

(1) Diphtheria.

(2) Haemophilus influenzae type b, except for children who have reached the age of four years and six months.

(3) Measles.

(4) Mumps, except for children who have reached the age of seven years.

(5) Pertussis (whooping cough), except for children who have reached the age of seven years.

(6) Poliomyelitis.

(7) Rubella.

(8) Tetanus.

(9) Hepatitis B for all children entering the institutions listed in this subdivision at the kindergarten level or below on or after August 1, 1997.

(10) Any other disease deemed appropriate by the department, taking into consideration the recommendations of the United States Public Health Services' Centers for Disease Control Immunization Practices Advisory Committee and the American Academy of Pediatrics Committee of Infectious Diseases.

(c) On and after July 1, 1999, the governing authority shall not unconditionally admit any pupil to the 7th grade level, nor unconditionally advance any pupil to the 7th grade level, of any of the institutions listed in subdivision (b) unless the pupil has been fully immunized against hepatitis B.

(d) The department may specify the immunizing agents which may be utilized and the manner in which immunizations are administered.

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.

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## CHAPTER 883

An act to amend Section 14132.06 of the Welfare and Institutions Code, relating to health services.

[Approved by Governor October 11, 1997. Filed with Secretary of State October 12, 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 the purposes of this section, the local educational agency, as a condition of enrollment to provide services under this section, shall be considered the provider of services. A local educational agency provider, as a condition of enrollment to provide services under this section, shall 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 the 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) Mental health 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) or an individualized family service plan (IFSP).

(g) Local educational agencies may, but need not, provide any or all of the services specified in subdivision (f).

(h) For the purposes of this section, "local educational agency" means the governing body of any school district or community college district, the county office of education, a state special school, a California State University campus, or a University of California campus.

(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) or an individualized family service plan (IFSP), provided on or after January 1, 1995.

(j) Notwithstanding any other provision of the law, a community college district, a California State University campus, or a University of California campus, consistent with the requirements of this section, may bill for services provided to any student, regardless of age, who is a Medi-Cal recipient.

SEC. 2. 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 the purposes of this section, the local educational agency, as a condition of enrollment to provide services under this section, shall be considered the provider of services. A local educational agency provider, as a condition of enrollment to provide services under this section, shall 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 the 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) Mental health 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 the purposes of this section, "local educational agency" means the governing body of any school district or community college district, the county office of education, a state special school, a California State University campus, or a University of California campus.

(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.

(j) Notwithstanding any other provision of the law, a community college district, a California State University campus, or a University of California campus, consistent with the requirements of this

section, may bill for services provided to any student, regardless of age, who is a Medi-Cal recipient.

SEC. 3. Section 2 of this bill incorporates amendments to Section 14132.06 of the Welfare and Institutions Code proposed by both this bill and Assembly Bill No. 1294. 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 14132.06 of the Welfare and Institutions Code, and (3) this bill is enacted after AB 1294, in which case Section 14132.06 of the Welfare and Institutions Code as amended by AB 1294, shall remain operative only until the operative date of this bill, at which time Section 2 of this bill shall become operative, and Section 1 of this bill shall not become operative.

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.

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## CHAPTER 884

An act to add Article 10.1 (commencing with Section 25211) to Chapter 6.5 of Division 20 of the Health and Safety Code, and to amend Sections 42167 and 42175 of, and to add Section 42175.1 to, the Public Resources Code, relating to hazardous materials.

[Approved by Governor October 11, 1997. Filed with
Secretary of State October 12, 1997.]

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

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

(a) Discarded major appliances are solid waste managed pursuant to the California Integrated Waste Management Act of 1989 (Division 30 (commencing with Section 40000) of the Public Resources Code), including the provisions of that act governing metallic discards (Chapter 3.5 (commencing with Section 42160) of Part 3 of Division 30 of the Public Resources Code) unless the major appliances are removed from the solid waste stream for the purposes of recycling. However, those major appliances may contain

hazardous materials that become hazardous waste when released or removed from the appliance in the discard process.

(b) To avoid hazardous waste contamination of soil and groundwater and contamination of reusable materials derived from metal scrapyards and shredders, and to avoid the illegal disposal of any hazardous waste released or removed from a major appliance, it is in the interests of the state to ensure that those materials are removed from major appliances before they are crushed for transport or transferred to a shredder or baler for recycling and are managed in compliance with Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code.

(c) Any materials that require special handling are required to be removed from major appliances as specified in Section 42175 of the Public Resources Code.

SEC. 2. Article 10.1 (commencing with Section 25211) is added to Chapter 6.5 of Division 20 of the Health and Safety Code, to read:

### Article 10.1. Management of Hazardous Wastes Removed From Discarded Appliances

25211. For purposes of this article, the following terms have the following meaning:

(a) "Major appliance" has the same meaning as defined in Section 42166 of the Public Resources Code.

(b) "Materials that require special handling" has the same meaning as defined in Section 42167 of the Public Resources Code.

25212. (a) Any person who, pursuant to Section 42175 of the Public Resources Code, removes from a major appliance any material that requires special handling, that is a hazardous waste under this chapter, is a hazardous waste generator and shall comply with all provisions of this chapter applicable to generators of hazardous waste.

(b) All materials that require special handling that have been removed from a major appliance pursuant to Section 42175 of the Public Resources Code, and that are hazardous wastes, shall be managed in accordance with this chapter.

(c) (1) The department or a local health officer or other public officer authorized pursuant to Article 8 (commencing with Section 25180), including, when applicable, a certified unified program agency (CUPA) or a unified program agency within the jurisdiction of a CUPA, shall incorporate the regulation of materials that require special handling that, when removed from major appliances, are hazardous wastes into the existing inspection and enforcement activities of the department or the local health officer or other public officer.

(2) The department, local health officers, or other public officers shall coordinate their activities as needed to identify and regulate materials that require special handling that, when removed from

major appliances, are hazardous wastes that are transported from one jurisdiction to another.

25213. (a) To implement subdivision (c) of Section 25212, the department shall, based on reasonably available information, develop a statewide list of appliance recyclers, used appliance dealers, solid waste facilities, metal scrapyards, and others who may remove, or do business with those who remove, from major appliances, materials that require special handling. The department shall notify persons on the list of the requirements of this chapter and the steps that will be required to be taken to comply with this chapter.

(b) The department shall transmit a copy of the Appliance Recycling Guide, published by the California Integrated Waste Management Board, and any other materials determined to be necessary by the department to ensure compliance with this chapter, to the following persons and agencies:

(1) Persons who apply for a generator identification number indicating that they are involved with any activities regulated pursuant to this article.

(2) The local officers and agencies authorized to enforce this chapter pursuant to subdivision (a) of Section 25180.

(c) The department shall transmit the generator identification number of any person identified pursuant to paragraph (1) of subdivision (b) and the statewide list developed pursuant to subdivision (a) to the appropriate local officers and agencies authorized to enforce this chapter pursuant to subdivision (a) of Section 25180.

25214. The department shall make information available upon request regarding the implementation of this article, including, but not limited to, the list of persons notified pursuant to subdivision (a) of Section 25213, the list of persons identified pursuant to paragraph (1) of subdivision (b) of Section 25213, information on inspection and enforcement, and other information pertaining to the record of compliance with this article, subject to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

SEC. 3. Section 42167 of the Public Resources Code is amended to read:

42167. "Materials that require special handling" means all of the following:

(a) Sodium azide canisters in unspent airbags that are determined to be hazardous by federal and state law or regulation.

(b) Encapsulated polychlorinated biphenyls (PCBs) in major appliances.

(c) Chlorofluorocarbons (CFCs) injected in air-conditioning/refrigeration units.

(d) Used oil, as defined in subparagraph (A) of paragraph (1) of subdivision (a) of Section 25250.1 of the Health and Safety Code, in

major appliances. Materials described in subparagraph (B) of paragraph (1) of subdivision (a) of Section 25250.1 of the Health and Safety Code are not excluded from the definition of used oil for the purposes of this section.

(e) Mercury found in switches and temperature control devices in major appliances.

SEC. 4. Section 42175 of the Public Resources Code is amended to read:

42175. Materials that require special handling shall be removed from major appliances and vehicles in which they are contained prior to crushing for transport or transferring to a baler or shredder for recycling.

SEC. 5. Section 42175.1 is added to the Public Resources Code, to read:

42175.1. Any hazardous material that becomes a hazardous waste when released or removed from any major appliance shall be managed pursuant to Article 10.1 (commencing with Section 25211) of Chapter 6.5 of Division 20 of the Health and Safety Code.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the 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 or because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

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

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## CHAPTER 885

An act to add Chapter 3.1 (commencing with Section 13825.1) to Title 6 of Part 4 of the Penal Code, relating to youth, and making an appropriation therefor.

[Approved by Governor October 11, 1997. Filed with
Secretary of State October 12, 1997.]

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

SECTION 1. In order to take a more balanced, preventive, and comprehensive approach for reducing crime and violence in California, it is the intent of the Legislature that resources be increased for programs that are designed with the input of, or carried out by, various elements of certain communities with high levels of gang and criminal activity, for purposes of targeting and preventing at-risk youth from participating in gangs, criminal activity, and violent behavior.

SEC. 2. The Legislature hereby finds and declares all of the following:

(a) While overall crime is declining, juvenile crime is rising. The United States Justice Department reported in 1996 that juvenile arrests for serious crimes grew by 46 percent from 1983 to 1992, while murders committed by juveniles during this period more than doubled.

(b) The problem of youth violence will, without active intervention, increase as the juvenile population is projected to grow substantially by the next decade. By the year 2010 the number of juveniles who are 15 to 17 years of age is expected to increase 31 percent. Although illegal drug use among high school seniors had declined significantly during the 1980's, it began rising in 1992. Juvenile arrest rates for weapons-law violations increased 103 percent between 1985 and 1994, while juvenile killings with firearms quadrupled between 1984 and 1994. Handguns were used in two-thirds of the youth homicides involving guns over a 15-year span. In 1994, 82 percent of juvenile murderers used guns. The number of juvenile homicide offenders in 1994 was about 2,800, nearly triple the number in 1984. Most offenders were 15 years of age or older. In addition, juveniles tend to murder strangers more than one-third of the time, while adults tend to murder family and those they know.

(c) Some project that the increase in the crime rate will be larger among Black and Latino juveniles, with a 17 percent increase among Black teens and a 30 percent increase among Latino teens.

(d) The adult arrest rate is 2,000 per 100,000 adults, while the juvenile arrest rate among 10 to 17 year olds is 2,800 per 100,000 juveniles.

(e) The juvenile felony arrest rate for 15 to 19 year olds is 2,900 per 100,000 juveniles, while the adult felony arrest rate for 20 to 30 year olds is 1,500 per 100,000 adults. The felony arrest rate reaches its highest peak in the 15 to 19 year-old group and the adult arrest rate continues to drop dramatically as the years in age increase.

(f) About half of all persons arrested in California in 1992 were between the ages of 11 and 24.

(g) Those who are more likely to be killed by firearms than any other age group, are teenagers, 18 to 19 years of age.

(h) California spends a significant percentage of its budget on punishment and incarceration efforts in relation to the resources it spends for prevention efforts.

(i) In responding to crime, violence, and gangs, the Office of the Legislative Analyst estimated that state and local governments spent about 13.8 billion dollars in the 1992–93 fiscal year in related costs for law enforcement (6.5 billion dollars), corrections (4.8 billion dollars), courts (1.4 billion dollars), prosecution (7 million dollars), and public defense (4 million dollars).

(j) The inmate population will increase from 140,000 to 209,500 by the year 2000 and will exceed 300,000 by the year 2005. The Department of Corrections estimates that the cost of operating the prison system will increase by about 1.4 billion dollars by the 1998–99 fiscal year, 3 billion dollars by the 2003–04 fiscal year, and 5.7 billion dollars in the 2026–27 fiscal year and annually thereafter.

(k) California allocates insufficient funding for crime and violence prevention efforts. The state's largest providers of prevention programs are the Office of Criminal Justice Planning, the State Department of Education, the State Department of Social Services, and the State Department of Alcohol and Drug Programs which received a total of approximately seventy-eight million four hundred thousand dollars ($78,400,000) in the 1995–96 fiscal year.

(*l*) The United States Justice Department has estimated that crime costs 490 billion dollars per year in the form of stolen or damaged property, loss of productivity to society, loss of work time, costs to operate the criminal justice system, including police, prosecution, courts, probation, incarceration, and parole costs, medical costs, and the pain and suffering of crime victims. Although the costs of crime and violence can be quantified, to a large degree, in monetary terms, it is the intangible results of crime and violence, for example, fear, intolerance, and isolation, that contribute in tremendous part to the decay of individuals, relations, values, and society. This destruction carries a price tag that may never be paid.

(m) The health-related costs of crime and violence are enormous. For example, the average cost to treat a gunshot victim in California in 1993 was approximately twenty-five thousand eight hundred eighty-three dollars ($25,883). It cost seven hundred three million dollars ($703,000,000) in direct medical care in 1993 to treat wounded gunshot victims and gunshot fatalities. Over 80 percent of the medical care provided to gunshot victims in California, approximately five hundred sixty-nine million dollars ($569,000,000), was uncompensated cost that was passed on to the public in 1995. In 1993, the average loss in productivity and quality of life per gunshot in California was over two million four hundred thousand dollars ($2,400,000), while total firearm-related injuries and fatalities in 1993 indirectly cost Californians over 16.9 billion dollars in lost productivity and quality of life.

(n) Various prevention and intervention programs currently are providing services and activities that are effectively reducing gang and criminal activity and violent behavior in the communities in which they are operating. Successful prevention and intervention programs appear to incorporate some or all of the following elements or components: (1) identify risk factors for crime and violence, (2) use protective factors for reducing and preventing crime and violence, (3) implement community guidelines for prevention and intervention, (4) target at-risk youth, (5) target certain geographical areas, (6) contain a mentoring component, and (7) link the community with law enforcement, schools, service providers, and local government.

SEC. 3. Chapter 3.1 (commencing with Section 13825.1) is added to Title 6 of Part 4 of the Penal Code, to read:

## CHAPTER 3.1. THE CALIFORNIA GANG, CRIME, AND VIOLENCE PREVENTION PARTNERSHIP PROGRAM

13825.1. This chapter shall be known and may be cited as the California Gang, Crime, and Violence Prevention Partnership Program.

13825.2. The California Gang, Crime, and Violence Prevention Partnership Program shall be administered by the Department of Justice for the purposes of reducing gang, criminal activity, and youth violence to the extent authorized pursuant to this chapter in communities with a high incidence of gang violence, including, but not limited to, the communities of Fresno, Glendale, Long Beach, Los Angeles, Oakland, Riverside, Santa Ana, Santa Cruz, San Bernardino, San Diego, San Jose, San Francisco, San Mateo, Santa Monica, and Venice. The department shall also consider communities that meet any one of the following criteria:

(a) An at-risk youth population, as defined in subdivision (c) of Section 13825.4, that is significantly disproportionate to the general youth population of that community.

(b) A juvenile arrest rate that is significantly disproportionate to the general youth population of that community.

(c) Significant juvenile gang problems or a high number of juvenile gang-affiliated acts of violence.

13825.3. All funds made available to the Department of Justice for purposes of this chapter shall be disbursed in accordance with this chapter to community-based organizations and nonprofit agencies that comply with the program requirements of Section 13825.4 and the funding criteria of Section 13825.5 of this chapter.

(a) Funds disbursed under this chapter may enhance, but shall not supplant local, state, or federal funds that would, in the absence of the California Gang, Crime, and Violence Prevention Partnership Program, be made available for the prevention or intervention of youth involvement in gangs, crime, or violence.

(b) The applicant community-based organization or nonprofit agency may enter into interagency agreements between it and a fiscal agent that will allow the fiscal agent to manage the funds awarded to the community-based organization or nonprofit agency.

(c) Before April 15, 1998, the department shall prepare and file administrative guidelines and procedures for the California Gang, Crime, and Violence Prevention Partnership Program consistent with this chapter.

(d) Before July 1, 1998, the department shall issue a "request for funding proposal" that informs applicants of the purposes and availability of funds to be awarded under this chapter and solicits proposals from community-based organizations and nonprofit agencies to provide services consistent with this chapter.

(e) The department shall conduct an evaluation of the California Gang, Crime, and Violence Prevention Partnership Program after two years of program operation and each year thereafter, for purposes of identifying the effectiveness and results of the program. The evaluation shall be conducted by staff or an independent body that has experience in evaluating programs operated by community-based organizations or nonprofit agencies.

(f) After two years of program operation, and each year thereafter, the department shall prepare and submit an annual report to the Legislature describing in detail the operation of the program and the results obtained from the California Gang, Crime, and Violence Prevention Partnership Program receiving funds under this chapter. The report shall also list the full costs applicable to the department for processing and reviewing applications, and for administering the California Gang, Crime, and Violence Prevention Partnership Program.

13825.4. Community-based organizations and nonprofit agencies that receive funds under this chapter shall utilize the funds to provide services and activities designed to prevent or deter at-risk youth from participating in gangs, criminal activity, or violent behavior.

(a) These prevention and intervention efforts shall include, but not be limited to, any of the following:

(1) Services and activities designed to do any of the following:

(A) Teach alternative methods for resolving conflicts and responding to violence, drugs, and crime.

(B) Develop positive and life-affirming attitudes and behaviors.

(C) Build self-esteem.

(2) Recreational, educational or cultural activities.

(3) Counseling or mentoring services.

(4) Economic development activities.

(b) Funds allocated under this chapter may not be used for services or activities related to suppression, law enforcement, incarceration, or other purposes not related to prevention and deterring gangs, crime, and violence.

(c) Services and activities provided with funds under this chapter shall be used for at-risk youth who are defined as persons from age five to 20 and who fall into one or more of the following categories:

(1) Live in a high-crime or high-violence neighborhood as identified by local or federal law enforcement agencies.

(2) Live in a low-economic neighborhood as identified by the U.S. Census or come from an impoverished family.

(3) Are excessively absent from school or are doing poorly in school as identified by personnel from the youth's school.

(4) Come from a socially dysfunctional family as identified by local or state social service agencies.

(5) Have had one or more contacts with the police.

(6) Have entered the juvenile justice system.

(7) Are identified by the juvenile justice system as being at-risk.

(8) Are current or former gang members.

(9) Have one or more family members living at home who are current or former members of a gang.

(10) Are identified as wards of the court, as defined in Section 601 of the Welfare and Institutions Code.

(d) In carrying out a program of prevention and intervention services and activities with funds received under this chapter, community-based organizations and nonprofit agencies shall do all of the following:

(1) Collaborate with other local community-based organizations, nonprofit agencies or local agencies providing similar services, local schools, local law enforcement agencies, residents and families of the local community, private businesses in the local community, and charitable or religious organizations, for purposes of developing plans to provide a program of prevention and intervention services and activities with funds provided under this chapter.

(2) Identify other community-based organizations, nonprofit agencies, local agencies, and charitable or religious organizations in the local community that can serve as a resource in providing services and activities under this chapter.

(3) Follow the public health model approach in developing and carrying out a program to prevent, deter or reduce youth gangs, crime or violence by (A) identifying risk factors of the particular population to be targeted, (B) implementing protective factors to prevent or reduce gangs, crime or violence in the particular community to be serviced, and (C) designing community guidelines for prevention and intervention.

(4) Provide referral services to at-risk youth who are being served under this chapter to appropriate organizations and agencies where the community-based organization or nonprofit agency can readily identify a need for counseling, tutorial, family support, or other types of services.

(5) Provide the parents and family of the at-risk youth with support, information, and services to cope with the problems the at-risk youth, the parents, and the family are confronting.

(6) Involve members of the at-risk target population in the development, coordination, implementation, and evaluation of their program of services and activities.

(7) Objectively evaluate the effectiveness of their services and activities to determine changes in attitudes or behaviors of the at-risk youth being served under this chapter towards gangs, crime, and violence.

13825.5. To be eligible for funding under this chapter, community-based organizations and nonprofit agencies shall submit a request for funding proposal in compliance with this chapter to conduct a program that meets the requirements of Section 13825.4. The Department of Justice shall establish the minimum standards, funding schedules, and procedures for awarding grants that shall take into consideration, but not be limited to, all of the following:

(a) A demonstrated showing of at least two years of experience in administering a program providing prevention or prevention and intervention services that have positively affected the attitudes or behaviors of at-risk youth, as defined in this chapter, toward gangs, crime, or violence.

(b) New programs, services, or staff that would augment the existing programs, services, and activities already being provided the community-based organization or nonprofit agency.

(c) The size of the eligible at-risk youth population that would be served by the community-based organization or nonprofit agency.

(d) The likelihood that the program will continue to operate after state grant funding ends.

(e) The ability of the community-based organization or nonprofit agency to objectively evaluate itself and a demonstrated showing of its plan to evaluate itself if funds are awarded. For purposes of this chapter, community-based organizations and nonprofit agencies do not include libraries, community service organizations, and city, county, and state-operated departments of parks and recreation.

13825.6. Funding for the California Gang, Crime, and Violence Prevention Partnership Program shall be subject to the following:

(a) Up to 2 percent of the amounts appropriated in the Budget Act shall be transferred each year upon the approval of the Director of Finance, for expenditure as necessary for the Department of Justice to administer this program.

(b) Up to 3 percent of the amounts appropriated in the Budget Act shall be transferred each year upon the approval of the Director of Finance, for expenditure as necessary for the department to provide technical assistance to community-based organizations and nonprofit agencies providing services under this chapter. Nothing in this chapter precludes the department from providing technical assistance services through an independent agency or organization.

SEC. 4. The sum of three million dollars ($3,000,000) is hereby appropriated from the General Fund to the Department of Justice to implement the California Gang, Crime, and Violence Prevention Partnership Program, as established by this act.

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## CHAPTER 886

An act to amend and supplement the Budget Act of 1997 (Chapter 282 of the Statutes of 1997), relating to state government, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 11, 1997. Filed with Secretary of State October 12, 1997.]

On this date I have signed AB 1188.

Assembly Bill No. 1188 would restore funding for various departments that was vetoed from the Budget Act of 1997 pending enactment of legislation for a mandatory testing program for all pupils in grades 2 through 11.

I am signing AB 1188, however, I am reducing the appropriations by a total of $6,054,000 because these projects are not a sufficient priority to justify their funding.

I am eliminating the $37,000 appropriation made in Section 2 from the Environmental License Plate Fund to the Department of Conservation for farmland mapping in Mendocino County.

I am eliminating the $80,000 appropriation made in Section 4 from the Environmental License Plate Fund to the Department of Parks and Recreation to fund a grant to the City of Redondo Beach to refurbish ponds and paths in Wilderness Park.

I am reducing the appropriations made in Section 5 by a total of $750,000 from the Public Resources Account of the Cigarette and Tobacco Products Surtax Fund to the Department of Parks and Recreation. Subsection (d) would appropriate $500,000 to the City of Maywood to acquire land for a regional park and recreation facility. Subsection (e) would appropriate $250,000 to the City of Clearlake for the construction of a new senior center.

I am reducing the appropriations made in Section 6 by a total of $132,000 from the Natural Resources Infrastructure Fund to the Department of Parks and Recreation. Subsection (c) would appropriate $100,000 to the City of San Jose for the Vietnamese Cultural Heritage Garden. Subsection (d) would appropriate $32,000 to the Youth Garden Alliance for a community garden in Mendocino County.

I am eliminating the $2,000,000 appropriation made in subsection (a) of Section 14 from the General Fund to the Commission on Teacher Credentialing (Proposition 98) to fund expansion of the California School Paraprofessional Teacher Training Program.

I am eliminating the $55,000 appropriation made in subsection (b) of Section 14 from the Federal Trust Fund to the Teacher Credentials Fund to fund the costs of the Commission on Teacher Credentialing in administering the California School Paraprofessional Teacher Training Program.

I am eliminating the $3,000,000 appropriation made in Section 16 from the Air Pollution Control Fund to the State Air Resources Board to fund stationary source air pollution control activities. This section is duplicative of Section 32 of AB 1571, and is therefore, unnecessary.

PETE WILSON, Governor

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

SECTION 1. The appropriations made by this act are in augmentation of the appropriations made in Section 2.00 of the Budget Act of 1997 (Ch. 282, Stats. 1997), and are subject to the provisions of that act, as appropriate, that apply to the items of appropriation that are augmented by this act. The references in this act to item numbers refer to items of appropriation in Section 2.00 of the Budget Act of 1997.

SEC. 2. The sum of thirty-seven thousand dollars ($37,000) is hereby appropriated from the California Environmental License Plate Fund to the Department of Conservation, in augmentation of the appropriation made in Item 3480-001-0140, to fund farmland mapping in Mendocino County.

SEC. 3. The sum of five hundred thousand dollars ($500,000) is hereby appropriated from the Harbors and Watercraft Revolving Fund to the Department of Boating and Waterways, in augmentation of the appropriation made in Item 3680-101-0516, for apportionment to Redwood City to fund the disposal of abandoned vessels.

SEC. 4. The sum of eighty thousand dollars ($80,000) is hereby appropriated from the Environmental License Plate Fund to the Department of Parks and Recreation, in augmentation of the appropriation made in Item 3790-101-0140, to fund a grant to the City of Redondo Beach for wilderness park improvements.

SEC. 5. The sum of two million fifty-five thousand dollars ($2,055,000) is hereby appropriated from the Public Resources Account of the Cigarette and Tobacco Products Surtax Fund to the Department of Parks and Recreation, in augmentation of the appropriation made in Item 3790-101-0235, for apportionment for local grants as follows:

(a) One million dollars ($1,000,000) to the City of Santa Maria for the United Youth Center.

(b) One hundred five thousand dollars ($105,000) to the City of San Diego for the Cadman Community Park Tot Lot.

(c) One hundred twenty-five thousand dollars ($125,000) to the City of San Diego for the Gershwin Neighborhood Park Tot Lot.

(d) Five hundred thousand dollars ($500,000) to the City of Maywood for a regional park.

(e) Two hundred fifty thousand dollars ($250,000) to the City of Clearlake for a senior center.

(f) Seventy-five thousand dollars ($75,000) to National City for El Toyon Park improvements.

SEC. 6. The sum of six hundred seven thousand dollars ($607,000) is hereby appropriated from the Natural Resources Infrastructure Fund to the Department of Parks and Recreation, in augmentation of the appropriation made in Item 3790-101-0383, for apportionment for local grants as follows:

(a) Twenty-five thousand dollars ($25,000) to the Linden Unified School District for renovation of a swimming pool.

(b) Two hundred fifty thousand dollars ($250,000) to the City of San Diego for a regional teen center.

(c) One hundred thousand dollars ($100,000) to the City of San Jose for the Vietnamese Cultural Heritage Garden.

(d) Thirty-two thousand dollars ($32,000) to the Youth Garden Alliance for a community garden in Mendocino County.

(e) Two hundred thousand dollars ($200,000) to the City of Merced for a sports complex.

SEC. 7. The sum of one hundred fifty thousand dollars ($150,000) is hereby appropriated from the Local Projects Subaccount of the Clean, Safe, Reliable Water Supply Fund to the Department of Water Resources, in augmentation of the appropriation made in Item 3860-001-0543, to fund a feasibility study for the Success Reservoir.

SEC. 8. The sum of eight hundred thousand dollars ($800,000) is hereby appropriated from the General Fund to the State Department of Education, in augmentation of the appropriation made in Item 6110-001-0001, to fund the pupil assessments program pursuant to Schedule (b) of that item.

SEC. 9. The sum of thirty million four hundred thousand dollars ($30,400,000) is hereby appropriated from the General Fund to the State Department of Education, in augmentation of the appropriation made in Item 6110-113-0001, to fund a pupil testing program pursuant to Schedule (c) and Provision 1 of that item as set forth in the conference report for Assembly Bill 107 of the 1997–98 Regular Session as adopted August 11, 1997.

SEC. 10. (a) The sum of two million dollars ($2,000,000) is hereby appropriated from the Federal Trust Fund to the State Department of Education, in augmentation of the appropriation made in Item 6110-142-0890, to fund the California Teacher Apprenticeship Program.

(b) The sum of one hundred thousand dollars ($100,000) is hereby appropriated from the Federal Trust Fund to the State Department of Education, in augmentation of the appropriation made in Item 6110-001-0890, and shall be transferred to Item 6360-001-0407 to fund the costs of the Commission on Teacher Credentialing in administering the program identified in subdivision (a).

(c) The funds appropriated by this section shall be available only if legislation is enacted during the 1997–98 Regular Session, and becomes operative on or before January 1, 1998, that establishes the program identified in subdivision (a), and an interagency agreement is entered into between the Commission on Teacher Credentialing and the State Department of Education for that purpose.

SEC. 11. The sum of five hundred thousand dollars ($500,000) is hereby appropriated from the General Fund to the State Department of Education (Proposition 98) to fund Indian Education Centers pursuant to Article 6 (commencing with Section 33380) of

Chapter 3 of Part 20 of the Education Code, in restoration of the appropriation made in Item 6110-151-0001 as set forth in the conference report for Assembly Bill 107 of the 1997–98 Regular Session as adopted August 11, 1997.

SEC. 12. The sum of nineteen million eight hundred twenty-three thousand dollars ($19,823,000) is hereby appropriated from the General Fund to the State Department of Education, in augmentation of the appropriation made in Item 6110-187-0001, for local assistance funding as follows:

(a) Seven million five hundred fifty-three thousand dollars ($7,553,000) for a cost-of-living adjustment for regional occupational centers and programs pursuant to Schedule (0.5) of that item as set forth in the conference report for Assembly Bill 107 of the 1997–98 Regular Session as adopted August 11, 1997.

(b) Twelve million two hundred seventy thousand dollars ($12,270,000) for a cost-of-living adjustment for the adult education program pursuant to Schedule (4.5) of that item as set forth in the conference report for Assembly Bill 107 of the 1997–98 Regular Session as adopted August 11, 1997.

SEC. 13. The sum of one hundred twenty-three million forty-five thousand dollars ($123,045,000) is hereby appropriated from the General Fund to the State Department of Education, in augmentation of the appropriation made in Item 6110-230-0001, to fund cost-of-living adjustments and enrollment growth funding, to be distributed to each program in an amount that is proportionate to the base funding level of the program in the 1996–97 fiscal year.

SEC. 14. (a) The sum of two million dollars ($2,000,000) is hereby appropriated from the General Fund to the Commission on Teacher Credentialing, in augmentation of the appropriation made in Item 6360-101-0001, to fund expansion of the California School Paraprofessional Teacher Training Program pursuant to Provision 2 of that item.

(b) The sum of fifty-five thousand dollars ($55,000) is hereby appropriated from the Federal Trust Fund, in augmentation of the appropriation made in Item 6110-001-0890, and shall be transferred to Item 6360-001-0407 to fund the costs of the Commission on Teacher Credentialing in administering the program identified in subdivision (a).

SEC. 15. The sum of ten million six hundred thousand dollars ($10,600,000) is hereby appropriated from the General Fund to the Board of Governors of the California Community Colleges, in augmentation of the appropriation made in Item 6870-101-0001, as follows:

(a) Eight million six hundred thousand dollars ($8,600,000) for apportionments pursuant to Schedule (a) of that item.

(b) Two million dollars ($2,000,000) to fund part-time faculty office hours pursuant to Schedule (z) of that item as set forth in the

conference report for Assembly Bill 107 of the 1997–98 Regular Session as adopted August 11, 1997.

SEC. 15.5. (a) The sum of two hundred thousand dollars ($200,000) is hereby appropriated from the General Fund to the California Science Center, in augmentation of the appropriation made in Item 1100-001-0001, to fund a study on Exposition Park.

(b) The funds appropriated by this section shall be used to contract for a study on Exposition Park. The study shall include, but not be limited to, a strategic long-term plan for future uses of the park, and recommendations to better market the facilities and to maximize revenues for the state. The study shall make recommendations for establishing more cohesive and integrated management of the components of Exposition Park, including the Memorial Coliseum, Sports Arena, California Science Center, California African American Museum, Museum of Natural History, Rose Garden, and IMAX Theater. Those recommendations shall address the role of the Los Angeles Unified School District and the University of Southern California as to management of the components of Exposition Park that are within the jurisdiction of those entities. Under the supervision of the California Science Center, the University of California at Los Angeles shall conduct the study. The study shall include input from all components in the park, and shall be submitted to the Joint Legislative Budget Committee, the Senate and Assembly fiscal committees, and the Assembly Select Committee on Exposition Park on or before May 31, 1998.

SEC. 16. The sum of three million dollars ($3,000,000) is hereby appropriated from the Air Pollution Control Fund to the State Air Resources Board, in augmentation of the appropriation made in Item 3900-001-0115, for the purposes of stationary source air pollution control activities.

SEC. 17. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to make certain necessary augmentations to the appropriations made by the Budget Act of 1997 for support of state government for the 1997–98 fiscal year, it is necessary that this act take effect immediately.

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## CHAPTER 887

An act to add Article 6.5 (commencing with Section 53125) to Chapter 1 of Part 1 of Division 2 of Title 5 of the Government Code, and to amend Section 41136 of the Revenue and Taxation Code, relating to local agencies, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 11, 1997. Filed with
Secretary of State October 12, 1997.]

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

SECTION 1. Article 6.5 (commencing with Section 53125) is added to Chapter 1 of Part 1 of Division 2 of Title 5 of the Government Code, to read:

Article 6.5. Local Nonemergency Telephone System Pilot Program

53125. (a) The Legislature finds and declares that the efficient and effective use of the "911" emergency telephone system has recently been compromised by an increase in nonemergency calls to that number. The Legislature further finds and declares that these nonemergency calls can burden the "911" system, diverting "911" call-takers and radio dispatchers from true emergencies. For these reasons, the Legislature finds and declares that a need exists to implement procedures to limit the use of the "911" system to true emergencies, and to provide citizens with an alternative phone system for nonemergencies. The purpose of the pilot program is to assess whether the establishment of a "311" nonemergency telephone system will substantially decrease the use of the "911" system for nonemergencies.

(b) The Division of Telecommunications of the Department of General Services shall conduct a pilot program to evaluate alternative means to reduce the use of the "911" telephone number for nonemergency assistance. The pilot program shall consist of the following two approaches:

(1) The use of a "311" telephone number as a means of reaching local public safety agencies for nonemergency assistance.

(2) Improved marketing of the use of and access to existing nonemergency telephone numbers for nonemergency assistance, which may include, but shall not be limited to providing decals for each individual telephone within the study area, which include the nonemergency telephone numbers of public safety entities serving the area in which the telephone is located.

(c) The pilot program shall be implemented as soon as the Division of Telecommunications determines that it is practicable to do so, but in no event later than July 1, 1998. The division may select one or more locations to implement the pilot program, and shall, to the extent possible, select areas with comparable characteristics to serve as a study area for one of the two approaches specified in subdivision (b) to permit reasonable comparisons of the two alternative approaches, and is encouraged to share the costs of the pilot program with the local agency or agencies. Participation in the pilot program shall be on a voluntary basis on the part of the local

agency or agencies. The division shall assess the effectiveness of each of the two approaches specified in subdivision (b) by evaluating the following factors:

(1) The overall impact of each of the two approaches specified in subdivision (b) on the "911" system.

(2) The costs associated with the establishment, operation, and maintenance of either approach specified in subdivision (b).

(3) The difficulties associated with appropriately routing emergency calls placed to the "311" telephone number or the existing nonemergency telephone number.

(4) The staffing requirements for "311" operators as compared to "911" dispatchers.

(5) Whether the use of either the "311" number or the existing nonemergency telephone number has caused confusion to the public, particularly with respect to the mistaken use of either "311" or the existing nonemergency telephone number instead of "911" by children.

(d) The pilot program shall be deemed to have demonstrated the success of either approach specified in subdivision (b) if the assessment required by subdivision (c) finds that the "311" telephone number or the existing nonemergency telephone number does not create confusion with the "911" program and finds that either approach specified in subdivision (b) has contributed to:

(1) Reducing "911" calls.

(2) Improving answer time for "911" calls.

(3) Reducing unanswered "911" calls.

(4) Reducing nonemergency "911" calls.

(e) The division shall submit a report to the Governor and the Legislature on the results of the pilot program and its assessment and comparison of each approach specified in subdivision (b) by July 1, 1999.

(f) This section shall remain in effect until January 1, 2000.

SEC. 2. Section 41136 of the Revenue and Taxation Code is amended to read:

41136. Funds in the State Emergency Telephone Number Account shall, when appropriated by the Legislature, be spent solely for the following purposes:

(a) To pay refunds authorized by this part.

(b) To pay the State Board of Equalization for the cost of the administration of this part.

(c) To pay the Department of General Services for its costs in administration of the "911" emergency telephone number system.

(d) To pay bills submitted to the Department of General Services by service suppliers or communications equipment companies for the installation and ongoing expenses for the following communications services supplied local agencies in connection with the "911" emergency phone number system:

(1) A basic system.

(2) A basic system with telephone central office identification.
(3) A system employing automatic call routing.
(4) Approved incremental costs.
(e) To pay claims of local agencies for approved incremental costs, not previously compensated for by another governmental agency.
(f) To pay claims of local agencies for incremental costs and amounts, not previously compensated for by another governmental agency, incurred prior to the effective date of this part, for the installation and ongoing expenses for the following communication services supplied in connection with the "911" emergency phone number system:
(1) A basic system.
(2) A basic system with telephone central office identification.
(3) A system employing automatic call routing.
(4) Approved incremental costs. Incremental costs shall not be allowed unless the costs are concurred in by the Communications Division.
(g) To pay the Telecommunications Division of the Department of General Services for the costs associated with the pilot program authorized by Article 6.5 (commencing with Section 53125) of Chapter 1 of Part 1 of Division 2 of Title 5 of the Government Code.

SEC. 3. The sum of two hundred thousand dollars ($200,000) is hereby appropriated from the State Emergency Telephone Number Account to the Division of Telecommunications of the Department of General Services for the purposes of implementing Article 6.5 (commencing with Section 53125) of Chapter 1 of Part 1 of Division 2 of Title 5 of the Government Code, as added by Section 1 of this act.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Due to the burden placed on the "911" emergency telephone system by nonemergency calls and the potential threat to the public safety posed by that burden, it is necessary that this act take effect immediately in order to determine as soon as possible whether the establishment of a "311" nonemergency telephone system will substantially decrease the use of the "911" system for nonemergencies.

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## CHAPTER 888

An act to amend Section 7150.1 of, and to add and repeal Sections 7150.2 and 7150.3 of, the Business and Professions Code, relating to contractors.

[Approved by Governor October 11, 1997. Filed with Secretary of State October 12, 1997.]

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

SECTION 1. Section 7150.1 of the Business and Professions Code is amended to read:

7150.1. A home improvement contractor, including a swimming pool contractor, is a contractor as defined and licensed under this chapter who is engaged in the business of home improvement either full time or part time. A home improvement contractor shall satisfy all requirements imposed by this article.

SEC. 2. Section 7150.2 is added to the Business and Professions Code, to read:

7150.2. (a) On or before January 1, 1999, the board shall establish a certification program for home improvement contractors. The board shall certify as home improvement contractors individuals, partnerships, corporations, or other combinations or organizations that perform or provide home improvement goods or services, as defined in Section 7151, and that meet the requirements set forth in Section 7150.3.

(b) The board shall publish a booklet containing information relative to the business of a home improvement contractor that shall be distributed to contractors upon request. At the board's discretion, it may charge an amount not to exceed the cost of publication.

(c) On and after July 1, 2000, a contractor may not engage in the business of home improvement or provide home improvement goods or services, as defined in Section 7151, unless the contractor is certified as a home improvement contractor.

(d) 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. 3. Section 7150.3 is added to the Business and Professions Code, to read:

7150.3. (a) In order to qualify for certification as a home improvement contractor, an applicant shall do all of the following:

(1) Apply to the board on a form prescribed by the registrar.

(2) Hold a current and valid contractor's license.

(3) Take and pass an open book examination on the business and contracting skills and laws related to home improvement contracting. In the case of a partnership, corporation, or other entity, in the situation in which the contractor's license has been obtained by appearance of a qualifying individual, that qualifying individual shall take and pass the examination.

(b) 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.

# CHAPTER 889

An act relating to education, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 11, 1997. Filed with Secretary of State October 12, 1997.]

On this date I have signed Assembly Bill No. 1587 with the following reductions.

AB 1587 would restore funding, for various K-12 projects, pending enactment of legislation for a mandatory testing program for all pupils in grades 2 through 11.

I am signing AB 1587, however, I am reducing the appropriations by a total of $1,010,000. Previously these funds were vetoed from AB 1578 (Chapter 299, Statutes of 1997). The specific reductions are as follows:

I am reducing Section 1 by eliminating subdivision (e) which allocates $10,000 to the Los Angeles Unified School District for an extended learning program at the Telfair Elementary School. This project should be funded at the local district level with one-time funds.

I am reducing Section 1 by eliminating subdivision (g) which allocates $1,000,000 to be allocated to school districts for upgrading playground facilities. Districts have received sufficient one-time revenues to fund this need from local resources.

PETE WILSON, Governor

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

SECTION 1. The sum of ten million two hundred twenty-four thousand dollars ($10,224,000) is hereby appropriated in accordance with the following schedule:

(a) (1) Seven hundred fifty thousand dollars ($750,000) from the General Fund to the Superintendent of Public Instruction for allocation to the California Museum Foundation in the 1997–98 fiscal year. Funds appropriated in this subdivision shall be used on a one-time basis for a variety of educational services and programs to enhance children's appreciation and understanding of African-American history, culture, and the visual arts. The Legislature finds and declares that these programs serve an essential educational purpose as a resource for public elementary and secondary schools and are offered to public school pupils and others. It is, therefore, the intent of the Legislature that, notwithstanding Section 41202 of the Education Code, the appropriation made by this paragraph shall be counted towards the state's obligation for minimum funding of the public school system under Section 8 of Article XVI of the California Constitution.

(2) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation made by paragraph (1) shall be deemed to be "General Fund revenues appropriated for 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.

(b) (1) Five hundred thousand dollars ($500,000) from the General Fund to the Superintendent of Public Instruction for allocation to the following school districts in the 1997–98 fiscal year:

| | | |
|---|---|---|
| (A) | San Diego Unified School District . . . . . . . . . . . . . | $350,000 |
| (B) | Sweetwater Union School District . . . . . . . . . . . . . . | 100,000 |
| (C) | Vista Unified School District . . . . . . . . . . . . . . . . . . | 25,000 |
| (D) | South Bay Union School District . . . . . . . . . . . . . . . | 25,000 |

(2) Funds appropriated in this subdivision shall be used on a one-time basis for an afterschool youth violence prevention and intervention program designed in cooperation with local law enforcement officials to protect middle grade pupils from negative influences during the most critical hours of the day.

(3) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation made by paragraph (1) shall be deemed to be "General Fund revenues appropriated for 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.

(c) (1) Fifty thousand dollars ($50,000) from the General Fund to the Superintendent of Public Instruction for allocation to the Lodi Unified School District in the 1997–98 fiscal year. Funds appropriated in this subdivision shall be used on a one-time basis for a central coordinator to recruit and train mentors in the establishment of a "Job Shadowing" program, develop internships for pupils within the Lodi area, and develop partnerships with local small businesses located within the district boundaries.

(2) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation made by paragraph (1) shall be deemed to be "General Fund revenues appropriated for 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.

(d) (1) Two hundred fifty thousand dollars ($250,000) from the General Fund to the Superintendent of Public Instruction for allocation to the Napa Valley Unified School District for the Napa

County Regional Occupational Center/Program in the 1997–98 fiscal year. Funds appropriated in this subdivision shall be used on a one-time basis to purchase computer equipment and other instructional materials for the Napa New Technology High School.

(2) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation made by paragraph (1) shall be deemed to be "General Fund revenues appropriated for 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.

(e) (1) Ten thousand dollars ($10,000) from the General Fund to the Superintendent of Public Instruction for allocation to the Los Angeles Unified School District in the 1997–98 fiscal year. Funds appropriated in this subdivision shall be used on a one-time basis for an extended learning program after school and on Saturdays for children and adults at the Telfair Elementary School.

(2) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation made by paragraph (1) shall be deemed to be "General Fund revenues appropriated for 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.

(f) (1) The sum of one million five hundred thousand dollars ($1,500,000) from the General Fund to the Superintendent of Public Instruction for allocation to the California Indian Education Centers Program in the 1997–98 fiscal year in accordance with Article 6 (commencing with Section 33380) of Chapter 3 of Part 20 of the Education Code. Notwithstanding Section 41205 of the Education Code, the Legislature finds and declares that 100 percent of this appropriation shall be used only for direct instructional services pursuant to Section 41205 of the Education Code and shall be applied to the state's obligation to provide funding to school districts for purposes of Section 8 of Article XVI of the California Constitution.

(2) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation made by paragraph (1) shall be deemed to be "General Fund revenues appropriated for 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.

(g) (1) One million dollars ($1,000,000) from the General Fund to the Superintendent of Public Instruction for allocation to school districts in the 1997–98 fiscal year to ensure children's safety on school playgrounds and reduce playground injuries to children. Funds appropriated in this subdivision shall be used on a one-time basis for upgrading, refurbishing, or replacing school playgrounds and playground facilities. The funds shall be awarded to school districts on a competitive basis in an amount not to exceed twenty-five thousand dollars ($25,000) per schoolsite. The grants shall be awarded in consultation with the State Department of Health Services and the Integrated Waste Management Board. To be eligible for a grant a school district shall do both of the following:

(A) Demonstrate its ability to provide a 50 percent match, either through public or private funds or in-kind contributions, unless the Superintendent of Public Instruction waives the matching requirement based on financial ability of the school district to meet the required match.

(B) Guarantee that 50 percent of the grant funds will be used for the improvement or replacement of playground equipment and facilities through the use of recycled materials.

(2) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation made by paragraph (1) shall be deemed to be "General Fund revenues appropriated for 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.

(h) (1) Eight hundred thousand dollars ($800,000) from the General Fund to the Superintendent of Public Instruction in the 1997–98 fiscal year for allocation to a local education agency. Funds appropriated in this subdivision shall be used by the Superintendent of Public Instruction to develop an English language development examination pursuant to Chapter 7 (commencing with Section 60810) of Part 33 of the Education Code. This subdivision shall not become operative unless and until legislation authorizing the development of an English language development examination becomes effective on or before January 1, 1998.

(2) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation made by paragraph (1) shall be deemed to be "General Fund revenues appropriated for 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.

(i) (1) Two million two hundred seventy-three thousand dollars ($2,273,000) from the General Fund to the Superintendent of Public Instruction, for allocation to school districts in the 1997–98 fiscal year in an equal amount per pupil based upon each school districts' October enrollment in grades 7 to 12, inclusive, in the prior fiscal year. Funds appropriated in this subdivision shall be used on a one-time basis for school libraries.

(2) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation made by paragraph (1) shall be deemed to be "General Fund revenues appropriated for 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.

(j) (1) One million six hundred forty-six thousand dollars ($1,646,000) from the General Fund to the Superintendent of Public Instruction for allocation to the San Joaquin County Office of Education in the 1997–98 fiscal year for educational and operational costs for the Professional Development Center; technology training for teachers, pupils, and support staff; and reading and mathematics projects.

(2) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation made by paragraph (1) shall be deemed to be "General Fund revenues appropriated for school districts," as defined in subdivision (c) of Section 41202 of the Education Code, for the 1994–95 fiscal year, and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B," as defined in subdivision (e) of Section 41202 of the Education Code, for the 1994–95 fiscal year.

(k) (1) One hundred thousand dollars ($100,000) from the General Fund to the Superintendent of Public Instruction for allocation to the St. Helena Unified School District in the 1997–98 fiscal year. Funds appropriated in this subdivision shall be used on a one-time basis for costs associated with the establishment of an agricultural center at St. Helena High School.

(2) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation made by paragraph (1) shall be deemed to be

"General Fund revenues appropriated for 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.

(*l*) (1) Three hundred ninety-five thousand dollars ($395,000) from the General Fund to the Superintendent of Public Instruction for allocation to the Lompoc Unified School District in the 1997–98 fiscal year. Funds appropriated in this subdivision shall be used on a one-time basis for the Cabrillo High School Aquarium expansion project.

(2) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation made by paragraph (1) shall be deemed to be "General Fund revenues appropriated for 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.

(m) (1) Four hundred fifty thousand dollars ($450,000) from the General Fund to the Superintendent of Public Instruction for allocation to the Burbank Unified School District in the 1997–98 fiscal year. Funds appropriated in this subdivision shall be used on a one-time basis for technology modernization at John Muir Middle School.

(2) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation made by paragraph (1) shall be deemed to be "General Fund revenues appropriated for 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.

(n) (1) Five hundred thousand dollars ($500,000) from the General Fund to the Los Angeles Unified School District for planning and site preparation for the New California Center for Culture, Education, and Economic Development. The Los Angeles Unified School District, in consultation with the Los Angeles Community College District, shall develop plans for the center promoting all of the following and shall report to the Legislature on its plans for establishment of the center by February 15, 1998:

(A) The cultural and historical contributions of Latinos and other ethnic groups to California.
(B) The development of Latino film archives.
(C) Educational programs in emerging multimedia technologies.
(D) Educational programs providing specialized instruction.
(2) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation made by paragraph (1) 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. 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 implement the Budget Act of 1997 with respect to public schools and community colleges, it is necessary that this act take effect immediately.

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## CHAPTER 890

An act to add Section 1260 of the Health and Safety Code, relating to health, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 11, 1997. Filed with Secretary of State October 12, 1997.]

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

SECTION 1. Section 1260 is added to the Health and Safety Code, to read:

1260. (a) Except as provided in subdivision (b), any member of the board of directors of a nonprofit corporation that is subject to Section 5914 of the Corporations Code, who negotiates the terms and conditions of a sale or transfer of assets, as described in Section 5914 of the Corporations Code, is prohibited from receiving, directly or indirectly, any salary, compensation, payment, or other form of remuneration from the for-profit corporation or entity or mutual benefit corporation following the close of the sale or other transfer of assets. This prohibition shall not apply to any reimbursement or payment made to a member of the board of directors, who is a physician or other health care provider, for direct patient care

services provided to patients covered by a health insurer, health care service plan, employer, or other entity that provides health care coverage, and that is owned, operated, or affiliated with the purchasing for-profit corporation or entity, provided that the amounts payable for the services rendered are no greater than the amounts payable to other physicians or health care providers providing the same or similar services.

For the purpose of this section, "direct patient care services" mean health care services provided directly to a patient, and do not include services provided through an intermediary. Further, in order to qualify for the exemption in this subdivision, the direct patient care services must be health care services that are regularly provided by other physicians or other health care providers in the community who are also receiving reimbursements or payments from the same health insurer, health care service plan, employer, or other entity that is owned or operated by, or affiliated with, the purchasing for-profit corporation or entity.

(b) After a period of two years following the close of the sale or other transfer of assets, a person who was a member of the board of directors of the nonprofit corporation who is prohibited from receiving any remuneration from the for-profit corporation or entity or mutual benefit corporation under subdivision (a) may enter into usual and customary business transactions with the for-profit corporation or entity or mutual benefit corporation so long as the following facts are established:

(1) Prior to authorizing or approving the transaction, the representative of the for-profit corporation or entity or mutual benefit corporation considered and in good faith determined after reasonable investigation under the circumstances that the corporation could not have obtained a more advantageous arrangement with reasonable effort under the circumstances.

(2) The for-profit corporation or entity or mutual benefit corporation, in fact could not have obtained a more advantageous arrangement with reasonable effort under the circumstances.

(c) Any person who is a member of management of the nonprofit corporation and who presents information or opinions to the board regarding the sale or other transfer of assets as described in subdivision (a) that are relied upon, or considered by, any of the board members in making decisions regarding the sale or transfer, may make a written affirmative declaration that he or she will not work for, or receive any form of remuneration from, the for-profit corporation or entity or the mutual benefit corporation in the future.

(d) In making any decision regarding the sale or other transfer of the nonprofit corporation's assets, as described in Section 5914 of the Corporations Code, the board of the nonprofit corporation is prohibited from substantially relying on any information presented by any person to whom subdivision (c) applies who has not made a written affirmative declaration pursuant to subdivision (c). This

subdivision shall not apply to any person whose only role in the sale or transfer is to provide to the nonprofit corporation exclusively factual information about the nonprofit corporation, community, financial status, or other similar data.

(e) In performing those duties of a director set forth in subdivision (d), the board of directors may contract with independent counsel, accountants, financial analysts, or other professionals whom the board believes to be reliable and competent in the matters presented, to review and evaluate information and advice presented by an employee who has not signed an affirmative declaration pursuant to subdivision (c). Any director who substantially relies on information and advice presented by such an independent professional shall be deemed to have not violated subdivision (d).

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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

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

Due to the high number of sales of nonprofit hospitals that are currently pending and expected to take place in California, it is necessary that this act take effect immediately in order to ensure the protection of the community's financial interest in the assets of the nonprofit hospital and the community's interest in maintaining access to quality hospital care.

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## CHAPTER 891

An act to amend Section 2982 of the Civil Code, relating to vehicles.

[Approved by Governor October 11, 1997. Filed with Secretary of State October 12, 1997.]

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

SECTION 1. Section 2982 of the Civil Code is amended to read:

2982. Every conditional sale contract subject to this chapter shall contain the disclosures required by Regulation Z whether or not Regulation Z applies to the transaction. In addition, to the extent applicable, the contract shall contain the other disclosures and notices required by, and shall satisfy the requirements and limitations of, this section. The disclosures required by subdivision (a) may be itemized or subtotaled to a greater extent than as required by that subdivision and shall be made together and in the sequence set forth in that subdivision. All other disclosures and notices may appear in the contract in any location or sequence and may be combined or interspersed with other provisions of the contract.

(a) The contract shall contain the following disclosures, as applicable, which shall be labeled "itemization of the amount financed":

(1) (A) The cash price, exclusive of document preparation fees, taxes imposed on the sale, pollution control certification fees, and the amount charged for a service contract.

(B) The fee to be retained by the seller for document preparation.

(C) The fee charged by the seller for certifying that the motor vehicle complies with applicable pollution control requirements.

(D) Any donation made to a high polluter repair or removal program.

(E) Taxes imposed on the sale.

(F) The amount charged for a service contract.

(G) The total cash price, which is the sum of subparagraphs (A) to (F), inclusive.

(2) An itemization of the amounts to be paid to any public officer for license, certificate of title, motor vehicle smog impact fee, and registration.

(3) The aggregate amount of premiums agreed, upon execution of the contract, to be paid for policies of insurance included in the contract, excluding the amount of any insurance premium included in the finance charge.

(4) The amount of the state fee for issuance of a certificate of compliance, noncompliance, exemption, or waiver pursuant to any applicable pollution control statute.

(5) A subtotal representing the sum of the foregoing items.

(6) The amount of the buyer's downpayment itemized to show the following:

(A) The net agreed value of the property being traded in.

(B) The amount of any portion of the downpayment to be deferred until not later than the due date of the second regularly scheduled installment under the contract and which is not subject to a finance charge.

(C) The amount of any manufacturer's rebate applied or to be applied to the downpayment.

(D) The remaining amount paid or to be paid by the buyer as a downpayment.

(7) The amount of any administrative finance charge, labeled "prepaid finance charge."

(8) The difference between item (5) and the sum of items (6) and (7), labeled "amount financed."

(b) No particular terminology is required to disclose the items set forth in subdivision (a) except as expressly provided in that subdivision.

(c) If payment of all or a portion of the downpayment is to be deferred, the deferred payment shall be reflected in the payment schedule disclosed pursuant to Regulation Z.

(d) If the downpayment includes property being traded in, the contract shall contain a brief description of that property.

(e) The contract shall contain the names and addresses of all persons to whom the notice required under Section 2983.2 and permitted under Sections 2983.5 and 2984 is to be sent.

(f) (1) Where the contract includes a finance charge determined on the precomputed basis, the contract shall identify the method of computing the unearned portion of the finance charge in the event of prepayment in full of the buyer's obligation and contain a statement of the amount or method of computation of any charge that may be deducted from the amount of any unearned finance charge in computing the amount that will be credited to the obligation or refunded to the buyer. The method of computing the unearned portion of the finance charge shall be sufficiently identified with a reference to the actuarial method if the computation will be under that method. The method of computing the unearned portion of the finance charge shall be sufficiently identified with a reference to the Rule of 78's, the sum of the digits, or the sum of the periodic time balances method in all other cases, and those references shall be deemed to be equivalent for disclosure purposes.

(2) Where the contract includes a finance charge which is determined on the simple-interest basis but provides for a minimum finance charge in the event of prepayment in full, the contract shall contain a statement of that fact and the amount of the minimum finance charge or its method of calculation.

(g) (1) Where the contract includes a finance charge which is determined on the precomputed basis and provides that the unearned portion of the finance charge to be refunded upon full prepayment of the contract is to be determined by a method other than actuarial, the contract shall contain a notice, in at least 10-point boldface type if the contract is printed, reading as follows: "Notice to buyer: (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completely filled-in copy of this agreement. (3) You can prepay the full amount due under this agreement at any time and obtain a partial refund of the finance charge if it is $1 or more. Because of the way the amount of this refund will be figured, the time when you prepay could increase the ultimate cost of credit under this agreement. (4)

If you default in the performance of your obligations under this agreement, the vehicle may be repossessed and you may be subject to suit and liability for the unpaid indebtedness evidenced by this agreement.”

(2) Where the contract includes a finance charge which is determined on the precomputed basis and provides for the actuarial method for computing the unearned portion of the finance charge upon prepayment in full, the contract shall contain a notice, in at least 10-point boldface type if the contract is printed, reading as follows: “Notice to buyer: (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completely filled-in copy of this agreement. (3) You can prepay the full amount due under this agreement at any time and obtain a partial refund of the finance charge if it is $1 or more. (4) If you default in the performance of your obligations under this agreement, the vehicle may be repossessed and you may be subject to suit and liability for the unpaid indebtedness evidenced by this agreement.”

(3) Where the contract includes a finance charge which is determined on the simple-interest basis, the contract shall contain a notice, in at least 10-point boldface type if the contract is printed, reading as follows: “Notice to buyer: (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completely filled-in copy of this agreement. (3) You can prepay the full amount due under this agreement at any time. (4) If you default in the performance of your obligations under this agreement, the vehicle may be repossessed and you may be subject to suit and liability for the unpaid indebtedness evidenced by this agreement.”

(h) The contract shall contain a notice in at least 8-point boldface type, acknowledged by the buyer, that reads as follows:

“If you have a complaint concerning this sale, you should try to resolve it with the seller.

Complaints concerning unfair or deceptive practices or methods by the seller may be referred to the city attorney, the district attorney, or the Department of Motor Vehicles, Division of Investigations and Occupational Licensing, P.O. Box 93289, Sacramento, California 94232-3890, or any combination thereof.

After this contract is signed, the seller may not change the financing or payment terms unless you agree in writing to the change. You do not have to agree to any change, and it is an unfair or deceptive practice for the seller to make a unilateral change.

________________________________

Buyer’s Signature”

(i) (1) The contract shall contain an itemization of any insurance included as part of the amount financed disclosed pursuant to

paragraph (3) of subdivision (a) and of any insurance included as part of the finance charge. The itemization shall identify the type of insurance coverage and the premium charged therefor, and, if the insurance expires before the date of the last scheduled installment included in the repayment schedule, the term of the insurance shall be stated.

(2) If any charge for insurance (other than for credit life or disability) is included in the contract balance and disbursement of any part thereof is to be made more than one year after the date of the conditional sale contract, any finance charge on the amount to be disbursed after one year shall be computed from the month the disbursement is to be made to the due date of the last installment under the conditional sale contract.

(j) (1) Except for contracts in which the finance charge or portion thereof is determined by the simple-interest basis and the amount financed disclosed pursuant to paragraph (8) of subdivision (a) is more than two thousand five hundred dollars ($2,500), the dollar amount of the disclosed finance charge shall not exceed the greater of:

(A) (i) One and one-half percent on so much of the unpaid balance as does not exceed two hundred twenty-five dollars ($225), $1^1/_6$ percent on so much of the unpaid balance in excess of two hundred twenty-five dollars ($225) as does not exceed nine hundred dollars ($900) and $^5/_6$ of 1 percent on so much of the unpaid balance in excess of nine hundred dollars ($900) as does not exceed two thousand five hundred dollars ($2,500); or

(ii) One percent of the entire unpaid balance; multiplied in either case by the number of months (computed on the basis of a full month for any fractional month period in excess of 15 days) elapsing between the date of the contract and the due date of the last installment; or

(B) If the finance charge is determined by the precomputed basis, twenty-five dollars ($25); or

(C) If the finance charge or a portion thereof is determined by the simple-interest basis:

(i) Twenty-five dollars ($25) if the unpaid balance does not exceed one thousand dollars ($1,000), (ii) fifty dollars ($50) if the unpaid balance exceeds one thousand dollars ($1,000) but does not exceed two thousand dollars ($2,000), or (iii) seventy-five dollars ($75) if the unpaid balance exceeds two thousand dollars ($2,000).

(2) The holder of the contract shall not charge, collect, or receive a finance charge which exceeds the disclosed finance charge, except to the extent (A) caused by the holder's receipt of one or more payments under a contract which provides for determination of the finance charge or a portion thereof on the 365-day basis at a time or times other than as originally scheduled whether or not the parties enter into an agreement pursuant to Section 2982.3, (B) permitted by paragraph (2), (3), or (4) of subdivision (c) of Section 226.17 of

Regulation Z, or (C) permitted by subdivisions (a) and (c) of Section 2982.8.

(3) If the finance charge or a portion thereof is determined by the simple-interest basis and the amount of the unpaid balance exceeds five thousand dollars ($5,000), the holder of the contract may, in lieu of its right to a minimum finance charge under subparagraph (C) of paragraph (1), charge, receive, or collect on the date of the contract an administrative finance charge not to exceed seventy-five dollars ($75), provided that the sum of the administrative finance charge and the portion of the finance charge determined by the simple-interest basis shall not exceed the maximum total finance charge permitted by subparagraph (A) of paragraph (1). Any administrative finance charge which is charged, received, or collected by a holder shall be deemed a finance charge earned on the date of the contract.

(4) When a contract provides for unequal or irregular payments, or payments on other than a monthly basis, the maximum finance charge shall be at the effective rate provided for in paragraph (1), having due regard for the schedule of installments.

(k) The contract may provide that for each installment in default for a period of not less than 10 days the buyer shall pay a delinquency charge in an amount not to exceed in the aggregate 5 percent of the delinquent installment, which amount may be collected only once on any installment regardless of the period during which it remains in default. Payments timely received by the seller under an extension or deferral agreement shall not be subject to a delinquency charge unless the charge is permitted by Section 2982.3. The contract may provide for reasonable collection costs and fees in the event of delinquency.

(*l*) Notwithstanding any provision of a contract to the contrary, the buyer may pay at any time before maturity the entire indebtedness evidenced by the contract without penalty. In the event of prepayment in full:

(1) If the finance charge was determined on the precomputed basis, the amount required to prepay the contract shall be the outstanding contract balance as of that date, provided, however, that the buyer shall be entitled to a refund credit in the amount of the unearned portion of the finance charge, except as provided in paragraphs (3) and (4). The amount of the unearned portion of the finance charge shall be at least as great a proportion of the finance charge, including any additional finance charge imposed pursuant to Section 2982.8 or other additional charge imposed because the contract has been extended, deferred, or refinanced, as the sum of the periodic monthly time balances payable more than 15 days after the date of prepayment bears to the sum of all the periodic monthly time balances under the schedule of installments in the contract or, if the contract has been extended, deferred, or refinanced, as so extended, deferred, or refinanced. Where the amount of the refund

credit is less than one dollar ($1), no refund credit need be made by the holder. Any refund credit may be made in cash or credited to the outstanding obligations of the buyer under the contract.

(2) If the finance charge or a portion thereof was determined on the simple-interest basis, the amount required to prepay the contract shall be the outstanding contract balance as of that date, including any earned finance charges which are unpaid as of that date and, if applicable, the amount provided in paragraph (3), and provided further that in cases where a finance charge is determined on the 360-day basis, the payments theretofore received will be assumed to have been received on their respective due dates regardless of the actual dates on which the payments were received.

(3) Where the minimum finance charge provided by subparagraph (B) or subparagraph (C) of paragraph (1) of subdivision (j), if either is applicable, is greater than the earned finance charge as of the date of prepayment, the holder shall be additionally entitled to the difference.

(4) The provisions of this subdivision shall not impair the right of the seller or the seller's assignee to receive delinquency charges on delinquent installments and reasonable costs and fees as provided in subdivision (k) or extension or deferral agreement charges as provided in Section 2982.3.

(5) Notwithstanding any provision of a contract to the contrary, whenever the indebtedness created by any contract is satisfied prior to its maturity through surrender of the motor vehicle, repossession of the motor vehicle, redemption of the motor vehicle after repossession, or any judgment, the outstanding obligation of the buyer shall be determined as provided in paragraph (1) or (2); provided further that the buyer's outstanding obligation shall be computed by the holder as of the date the holder recovers the value of the motor vehicle through disposition thereof or judgment is entered or, if the holder elects to keep the motor vehicle in satisfaction of the buyer's indebtedness, as of the date the holder takes possession of the motor vehicle.

(m) Notwithstanding any other provision of this chapter to the contrary, any information required to be disclosed in a conditional sale contract under this chapter may be disclosed in any manner, method, or terminology required or permitted under Regulation Z, as in effect at the time that disclosure is made, except that permitted by paragraph (2) of subdivision (c) of Section 226.18 of Regulation Z, provided that all of the requirements and limitations set forth in subdivision (a) of this section are satisfied. Nothing in this chapter prohibits the disclosure in that contract of additional information required or permitted under Regulation Z, as in effect at the time that disclosure is made.

(n) If the seller imposes a fee for document preparation, the contract shall contain a disclosure that the fee is not a governmental fee.

(o) No seller may impose an application fee for a transaction governed by this chapter.

(p) The seller or holder may charge and collect a fee not to exceed fifteen dollars ($15) for the return by a depository institution of a dishonored check, negotiated order of withdrawal, or share draft issued in connection with the contract, if the contract so provides or if the contract contains a generalized statement that the buyer may be liable for collection costs incurred in connection with the contract.

(q) The contract shall disclose on its face, by printing the word "new" or "used" within a box outlined in red, that is not smaller than one-half inch high and one-half inch wide, whether the vehicle is sold as a new vehicle, as defined in Section 430 of the Vehicle Code, or a used vehicle, as defined in Section 665 of the Vehicle Code.

(r) The contract shall contain a notice with a heading in at least 12-point bold type and the text in at least 10-point bold type, circumscribed by a line, immediately above the contract signature line, that reads as follows:

THERE IS NO COOLING OFF PERIOD

California law does not provide for a "cooling off" or other cancellation period for vehicle sales. Therefore, you cannot later cancel this contract simply because you change your mind, decide the vehicle costs too much, or wish you had acquired a different vehicle. After you sign below, you may only cancel this contract with the agreement of the seller or for legal cause, such as fraud.

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## CHAPTER 892

An act to amend Sections 998 and 2101 of the Code of Civil Procedure, to amend Sections 9402, 9403, 9404, 9405, 9406, and 9407 of, and to repeal Section 5114 of, the Commercial Code, to amend Section 721 of the Evidence Code, and to amend Sections 12583 and 68616 of the Government Code, relating to civil law.

[Approved by Governor October 11, 1997. Filed with Secretary of State October 12, 1997.]

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

SECTION 1. Section 998 of the Code of Civil Procedure is amended to read:

998. (a) The costs allowed under Sections 1031 and 1032 shall be withheld or augmented as provided in this section.

(b) Not less than 10 days prior to commencement of trial or arbitration (as provided in Section 1281 or 1295) of a dispute to be resolved by arbitration, any party may serve an offer in writing upon any other party to the action to allow judgment to be taken or an award to be entered in accordance with the terms and conditions stated at that time.

(1) If the offer is accepted, the offer with proof of acceptance shall be filed and the clerk or the judge shall enter judgment accordingly. In the case of an arbitration, the offer with proof of acceptance shall be filed with the arbitrator or arbitrators who shall promptly render an award accordingly.

(2) If the offer is not accepted prior to trial or arbitration, within 30 days after it is made, whichever occurs first, it shall be deemed withdrawn, and cannot be given in evidence upon the trial or arbitration.

(3) For purposes of this subdivision, a trial or arbitration shall be deemed to be actually commenced at the beginning of the opening statement of the plaintiff or counsel, and if there is no opening statement, then at the time of the administering of the oath or affirmation to the first witness, or the introduction of any evidence.

(c) (1) If an offer made by a defendant is not accepted and the plaintiff fails to obtain a more favorable judgment or award, the plaintiff shall not recover his or her postoffer costs and shall pay the defendant's costs from the time of the offer. In addition, in any action or proceeding other than an eminent domain action, the court or arbitrator, in its discretion, may require the plaintiff to pay a reasonable sum to cover costs of the services of expert witnesses, who are not regular employees of any party, actually incurred and reasonably necessary in preparation for trial or arbitration of the case by the defendant.

(2) (A) In determining whether the plaintiff obtains a more favorable judgment, the court or arbitrator shall exclude the postoffer costs.

(B) It is the intent of the Legislature in enacting subparagraph (A) to supersede the holding in Encinitas Plaza Real v. Knight, 209 Cal. App. 3d 996, that attorney's fees awarded to the prevailing party were not costs for purposes of this section but were part of the judgment.

(d) If an offer made by a plaintiff is not accepted and the defendant fails to obtain a more favorable judgment or award in any action or proceeding other than an eminent domain action, the court or arbitrator, in its discretion, may require the defendant to pay a reasonable sum to cover costs of the services of expert witnesses, who are not regular employees of any party, actually incurred and reasonably necessary in preparation for trial or arbitration of the case by the plaintiff, in addition to plaintiff's costs.

(e) If an offer made by a defendant is not accepted and the plaintiff fails to obtain a more favorable judgment or award, the costs

under this section, from the time of the offer, shall be deducted from any damages awarded in favor of the plaintiff. If the costs awarded under this section exceed the amount of the damages awarded to the plaintiff the net amount shall be awarded to the defendant and judgment or award shall be entered accordingly.

(f) Police officers shall be deemed to be expert witnesses for the purposes of this section; plaintiff includes a cross-complainant and defendant includes a cross-defendant. Any judgment or award entered pursuant to this section shall be deemed to be a compromise settlement.

(g) This chapter does not apply to an offer which is made by a plaintiff in an eminent domain action.

(h) The costs for services of expert witnesses for trial under subdivisions (c) and (d) shall not exceed those specified in Section 68092.5 of the Government Code.

(i) This section shall not apply to labor arbitrations filed pursuant to memoranda of understanding under the Ralph C. Dills Act (Chapter 10.3 (commencing with Section 3512) of Division 4 of Title 1 of the Government Code).

SEC. 2. Section 2101 of the Code of Civil Procedure is amended to read:

2101. (a) Notices of liens, certificates, and other notices affecting federal tax liens or other federal liens must be filed in accordance with this title.

(b) Notices of liens upon real property for obligations payable to the United States and certificates and notices affecting the liens shall be filed for record in the office of the recorder of the county in which the real property subject to the liens is situated.

(c) Notices of federal liens upon personal property, whether tangible or intangible, for obligations payable to the United States and certificates and notices affecting the liens shall be filed as follows:

(1) If the person against whose interest the lien applies is a corporation, a limited liability company, or a partnership whose principal executive office is in this state, as these entities are defined in the internal revenue laws of the United States, in the office of the Secretary of State.

(2) If the person against whose interest the lien applies is a trust that is not covered by paragraph (1), in the office of the Secretary of State.

(3) If the person against whose interest the lien applies is the estate of a decedent, in the office of the Secretary of State.

(4) In all other cases, in the office of the recorder of the county where the person against whose interest the lien applies resides at the time of filing of the notice of lien.

SEC. 3. Section 5114 of the Commercial Code, as amended by Chapter 497 of the Statutes of 1996, is repealed.

SEC. 4. Section 9402 of the Commercial Code is amended to read:

9402. (1) A financing statement is sufficient if it gives the names of the debtor and the secured party, is signed by the debtor, gives an address of the secured party from which information concerning the security interest may be obtained, gives a mailing address of the debtor, and contains a statement indicating the types, or describing the items, of collateral. A financing statement may be filed before a security agreement is made or a security interest otherwise attaches. When the financing statement covers crops growing or to be grown, the statement must also contain a description of the real estate concerned. When the financing statement covers timber to be cut or covers minerals or the like (including oil and gas) or accounts subject to subdivision (5) of Section 9103, or when the financing statement is filed as a fixture filing (Section 9313) and the collateral is goods which are or are to become fixtures, the statement must also comply with subdivision (5). A copy of the security agreement is sufficient as a financing statement if it contains the above information and is signed by the debtor. A certified copy of a financing statement or security agreement is sufficient as a financing statement if the original thereof was filed in this state.

(2) A financing statement which otherwise complies with subdivision (1) is sufficient when it is signed by the secured party instead of the debtor if it is filed to perfect a security interest in or as a fixture filing covering any of the following:

(a) Collateral already subject to a security interest in another jurisdiction when it is brought into this state or when the debtor's location is changed to this state. The financing statement must state that the collateral was brought into this state or that the debtor's location was changed to this state under such circumstances.

(b) Proceeds under Section 9306, if the security interest in the original collateral was perfected. The financing statement must describe the original collateral.

(c) Collateral as to which the filing has lapsed.

(d) Collateral acquired after a change of name, identity or corporate structure of the debtor (subdivision (7)).

(3) A form substantially as follows is sufficient to comply with subdivision (1):

Name of debtor (or assigner) ________________________________

Address ________________________________

Name of secured party (or assignee) ________________________________

Address ________________________________

Debtor's trade name or style, if any ________________________________

1. This financing statement covers the following types (or items) of property: (Describe) ________________________________

2. (If collateral is crops) The above–described crops are growing or are to be grown on: (Describe real estate) ________________________________

________________________________________________________________

3. (If applicable) The above goods are or are to become fixtures on* (Describe real estate) ______________________________

______________________________________________________

and this financing statement is to be recorded in the real estate records. (If the debtor does not have an interest of record) The name of a record owner is ______________________________

4. (If products of collateral are claimed) Products of the collateral are also covered.

| (Use whichever is applicable) | ______________________________<br>Signature of debtor (or assigner) |
|---|---|
| | ______________________________<br>Signature of secured party (or assignee) |

*Where appropriate substitute either "The above timber is standing on . . . . ." or "The above mineral or the like (including oil and gas or accounts will be financed at the wellhead or minehead of the well or mine located on . . . . ."

(4) A financing statement may be amended by filing a writing signed by both the debtor and the secured party, or by the secured party alone in the case of an amendment pursuant to subdivision (7). An amendment does not extend the period of effectiveness of a financing statement. If any amendment adds collateral, it is effective as to the added collateral only from the filing date of the amendment. In this division, unless the context otherwise requires, the term "financing statement" means the original financing statement and any amendments.

(5) A financing statement covering timber to be cut or covering minerals or the like (including oil and gas) or accounts subject to subdivision (5) of Section 9103, or a financing statement filed as a fixture filing (Section 9313) where the debtor is not a transmitting utility, must show that it covers this type of collateral, must recite that it is to be recorded in the real estate records, and the financing statement must contain a description of the real estate sufficient if it were contained in a mortgage of the real estate to give constructive notice of the mortgage under the law of this state. If the debtor does not have an interest of record in the real estate, the financing statement must show the name of a record owner. A financing statement filed as a fixture filing (Section 9313) where the debtor is not a transmitting utility must also recite either that it is filed as a fixture filing or that it covers goods which are or are to become fixtures.

(6) A mortgage is effective as a financing statement filed as a fixture filing from the date of its recording if all of the following conditions are met:

(a) The goods are described in the mortgage by item or type.

(b) The goods are or are to become fixtures related to the real estate described in the mortgage.

(c) The mortgage complies with the requirements for a financing statement in this section other than a recital that it is to be filed in the real estate records.

(d) The mortgage is duly recorded.

No fee with reference to the financing statement is required other than the regular recording and satisfaction fees with respect to the mortgage.

(7) A financing statement sufficiently shows the name of the debtor if it gives the individual, partnership or corporate name of the debtor, whether or not it adds other trade names or names of partners. Where the debtor so changes his or her name or in the case of an organization its name, identity or corporate structure that a filed financing statement becomes seriously misleading, the filing is not effective to perfect a security interest in collateral acquired by the debtor more than four months after the change, unless a new appropriate financing statement or an appropriate amendment to the filed financing statement is filed before the acquisition of the collateral by the debtor. A filed financing statement remains effective with respect to collateral transferred by the debtor even though the secured party knows of or consents to the transfer.

(8) A financing statement substantially complying with the requirements of this section is effective even though it contains minor errors which are not seriously misleading. A financing statement filed as a fixture filing (Section 9313) where the debtor is not a transmitting utility is not effective if it does not recite that it is to be recorded in the real estate records and either that it is filed as a fixture filing or that it covers goods which are or are to become fixtures.

(9) A financing statement substantially complying with the requirements of this section creates a security interest only to the extent of the interest of the debtor.

(10) No person or entity acting for or on behalf of the parties to a financing statement shall incur any liability for the consequences of recording a financing statement in the real estate records, and no action may be brought or maintained against that person or entity as a result of the recordation.

SEC. 5. Section 9403 of the Commercial Code, as amended by Section 5 of Chapter 656 of the Statutes of 1995, is amended to read:

9403. (1) Presentation for filing of a financing statement, tender of the filing fee and acceptance of the statement by the filing officer constitutes filing under this division.

(2) Except as provided in subdivision (6), a filed financing statement is effective for a period of five years from the date of filing. The effectiveness of a filed financing statement lapses on the expiration of such five-year period unless a continuation statement

is filed prior to the lapse. Upon such lapse the security interest becomes unperfected unless it is perfected without filing. If the security interest becomes unperfected upon lapse, it is deemed to have been unperfected as against a person who became a purchaser or lien creditor before lapse. Upon lapse of a fixture filing, it is deemed to have been ineffective as against a person who became a purchaser or lien creditor before lapse.

(3) A continuation statement may be filed by the secured party of record within six months prior to the expiration of the five-year period specified in subdivision (2). Any such continuation statement must be signed by the secured p arty of record, identify the original statement by file number thereof and state that the original statement is continued. A continuation statement filed to continue the effectiveness of a financing statement filed as a fixture filing (Section 9313) is not effective unless the following requirements are met:

(a) If the debtor did not have an interest of record in the real estate as of the date of the filing of the original statement, the continuation statement shall contain the name of a record owner of the real estate as of the date of the filing of the original statement.

(b) The continuation statement shall contain substantially the following statement: "This continuation statement is filed to continue the effectiveness of a financing statement filed as a fixture filing"; provided, that such statement shall clearly indicate the intent to continue the effectiveness of a financing statement as a fixture filing.

Upon timely filing of the continuation statement, the effectiveness of the original statement is continued for five years after the last date to which the filing was effective whereupon it lapses in the same manner as provided in subdivision (2) unless another continuation statement is filed prior to such lapse. Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the original statement. The filing officer may remove a lapsed financing statement and related filings from the files and destroy them immediately if he or she has retained a microfilm or other photographic record, or in other cases after one year after the lapse. The filing officer shall so arrange matters by physical annexation of financing statements to continuation statements or other related filings, or by other means, that if he or she physically destroys the financing statements of a period more than five years past, those which have been continued by a continuation statement or which are still effective under subdivision (6) shall be retained. The filing officer shall not destroy a financing statement and related filings as to which he or she has received written notice that there is an action pending relative thereto.

(4) Except as provided in subdivision (7) a filing officer shall mark each financing statement with a consecutive file number and with the date and time of filing and shall hold the statement or a microfilm or other photographic copy thereof for public inspection. In addition

the filing officer shall index the statement according to the name of the debtor and shall note in the index the file number and the address of the debtor given in this statement. The filing officer shall mark each continuation statement with the date and time of filing and shall index the same under the file number of the original financing statement.

(5) The uniform fee for filing, indexing and furnishing filing data (subdivision (1) of Section 9407) for an original financing statement, an amendment or a continuation statement shall be twenty dollars ($20) if the statement is in the standard form prescribed by the Secretary of State and otherwise shall be thirty dollars ($30).

(6) If the debtor is a transmitting utility (subdivision (5) of Section 9401) and a filed financing statement so states, it is effective until a termination statement is filed. A real estate mortgage which is effective as a fixture filing under subdivision (6) of Section 9402 remains effective as a fixture filing until the mortgage is released or satisfied of record or its effectiveness otherwise terminates as to the real estate.

(7) A financing or continuation statement covering collateral described in paragraph (b) of subdivision (1) of Section 9401 or filed as a fixture filing shall be recorded and indexed by the filing officer in the real property index of grantors under the name of the debtor and any owner of record shown on the financing statement. A financing or continuation statement so recorded and indexed and containing a description of real property affected thereby shall constitute constructive notice from the time of its acceptance for recording to any purchaser or encumbrancer of the real property of the security interest in such collateral.

(8) The amendments to subdivision (3) of this section, as enacted by the Legislature at the 1997–98 Regular Session, shall become operative June 1, 1998.

(9) 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. 6. Section 9403 of the Commercial Code, as added by Section 5.5 of Chapter 656 of the Statutes of 1995, is amended to read:

9403. (1) Presentation for filing of a financing statement, tender of the filing fee and acceptance of the statement by the filing officer constitutes filing under this division.

(2) Except as provided in subdivision (6), a filed financing statement is effective for a period of five years from the date of filing. The effectiveness of a filed financing statement lapses on the expiration of such five-year period unless a continuation statement is filed prior to the lapse. Upon such lapse the security interest becomes unperfected unless it is perfected without filing. If the security interest becomes unperfected upon lapse, it is deemed to have been unperfected as against a person who became a purchaser or lien creditor before lapse. Upon lapse of a fixture filing, it is

deemed to have been ineffective as against a person who became a purchaser or lien creditor before lapse.

(3) A continuation statement may be filed by the secured party of record within six months prior to the expiration of the five-year period specified in subdivision (2). Any such continuation statement must be signed by the secured party of record, identify the original statement by file number thereof and state that the original statement is continued. A continuation statement filed to continue the effectiveness of a financing statement filed as a fixture filing (Section 9313) is not effective unless the following requirements are met:

(a) If the debtor did not have an interest of record in the real estate as of the date of the filing of the original statement, the continuation statement shall contain the name of a record owner of the real estate as of the date of the filing of the original statement.

(b) The continuation statement shall contain substantially the following statement: "This continuation statement is filed to continue the effectiveness of a financing statement filed as a fixture filing"; provided, that such statement shall clearly indicate the intent to continue the effectiveness of a financing statement as a fixture filing.

Upon timely filing of the continuation statement, the effectiveness of the original statement is continued for five years after the last date to which the filing was effective whereupon it lapses in the same manner as provided in subdivision (2) unless another continuation statement is filed prior to such lapse. Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the original statement. The filing officer may remove a lapsed financing statement and related filings from the files and destroy them immediately if he or she has retained a microfilm or other photographic record, or in other cases after one year after the lapse. The filing officer shall so arrange matters by physical annexation of financing statements to continuation statements or other related filings, or by other means, that if he or she physically destroys the financing statements of a period more than five years past, those which have been continued by a continuation statement or which are still effective under subdivision (6) shall be retained. The filing officer shall not destroy a financing statement and related filings as to which he or she has received written notice that there is an action pending relative thereto.

(4) Except as provided in subdivision (7) a filing officer shall mark each financing statement with a consecutive file number and with the date and time of filing and shall hold the statement or a microfilm or other photographic copy thereof for public inspection. In addition the filing officer shall index the statement according to the name of the debtor and shall note in the index the file number and the address of the debtor given in this statement. The filing officer shall mark each continuation statement with the date and time of filing and shall

index the same under the file number of the original financing statement.

(5) The uniform fee for filing, indexing and furnishing filing data (subdivision (1) of Section 9407) for an original financing statement, an amendment or a continuation statement shall be five dollars ($5) if the statement is in the standard form prescribed by the Secretary of State and otherwise shall be ten dollars ($10).

(6) If the debtor is a transmitting utility (subdivision (5) of Section 9401) and a filed financing statement so states, it is effective until a termination statement is filed. A real estate mortgage which is effective as a fixture filing under subdivision (6) of Section 9402 remains effective as a fixture filing until the mortgage is released or satisfied of record or its effectiveness otherwise terminates as to the real estate.

(7) A financing or continuation statement covering collateral described in paragraph (b) of subdivision (1) of Section 9401 or filed as a fixture filing shall be recorded and indexed by the filing officer in the real property index of grantors under the name of the debtor and any owner of record shown on the financing statement. A financing or continuation statement so recorded and indexed and containing a description of real property affected thereby shall constitute constructive notice from the time of its acceptance for recording to any purchaser or encumbrancer of the real property of the security interest in such collateral.

(8) This section shall become operative on January 1, 2000.

SEC. 7. Section 9404 of the Commercial Code, as amended by Section 6 of Chapter 656 of the Statutes of 1995, is amended to read:

9404. (1) Whenever there is no outstanding secured obligation and no commitment to make advances, incur obligations or otherwise give value, the secured party of record must on written demand by the debtor send the debtor a statement that he or she no longer claims a security interest under the financing statement, which shall be identified by file number. If the affected secured party of record fails to send such a termination statement within 10 days after proper demand therefor he or she shall be liable to the debtor for all actual damages suffered by the debtor by reason of such failure, and if the failure is in bad faith for a penalty of one hundred dollars ($100).

(2) The filing officer shall mark each such termination statement with the date and time of filing and shall index the same under the name of the debtor and under the file number of the original financing statement. If the filing officer has a microfilm or other photographic record of the financing statement and related filings, the filing officer may remove the originals from the files at any time after receipt of the termination statement and destroy them, or if he or she has no such record, he or she may remove them from his or her files at any time after one year after receipt of the termination statement and destroy them.

(3) The uniform fee for filing, indexing and furnishing filing data (subdivision (1) of Section 9407) for a termination statement shall be twenty dollars ($20) if the statement is in the standard form prescribed by the Secretary of State and otherwise shall be thirty dollars ($30).

(4) 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. 7.5. Section 9404 of the Commercial Code, as added by Section 6.5 of Chapter 656 of the Statutes of 1995, is amended to read:

9404. (1) Whenever there is no outstanding secured obligation and no commitment to make advances, incur obligations or otherwise give value, the secured party of record must on written demand by the debtor send the debtor a statement that he or she no longer claims a security interest under the financing statement, which shall be identified by file number. If the affected secured party of record fails to send such a termination statement within 10 days after proper demand therefor he or she shall be liable to the debtor for all actual damages suffered by the debtor by reason of such failure, and if the failure is in bad faith for a penalty of one hundred dollars ($100).

(2) The filing officer shall mark each such termination statement with the date and time of filing and shall index the same under the name of the debtor and under the file number of the original financing statement. If the filing officer has a microfilm or other photographic record of the financing statement and related filings, the filing officer may remove the originals from the files at any time after receipt of the termination statement and destroy them, or if he or she has no such record, he or she may remove them from his or her files at any time after one year after receipt of the termination statement and destroy them.

(3) The uniform fee for filing, indexing and furnishing filing data (subdivision (1) of Section 9407) for a termination statement shall be five dollars ($5) if the statement is in the standard form prescribed by the Secretary of State and otherwise shall be ten dollars ($10).

(4) This section shall become operative on January 1, 2000.

SEC. 8. Section 9405 of the Commercial Code, as amended by Section 7 of Chapter 656 of the Statutes of 1995, is amended to read:

9405. (1) A secured party of record may by a writing release his or her security interest in all or a part of the collateral covered by a filed financing statement. A statement of release is sufficient if it is signed by the secured party of record, contains a statement describing the collateral being released, the name of the debtor, and the file number of the original financing statement.

(2) The filing officer shall mark each such statement with the date and time of filing and index the same under the name of the debtor and under the file number of the original financing statement.

(3) The uniform fee for filing, indexing and furnishing filing data (subdivision (1) of Section 9407) for a statement of release on a form conforming to standards prescribed by the Secretary of State shall be twenty dollars ($20) or, if such a statement otherwise conforms to the requirements of this section, thirty dollars ($30).

(4) 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. 8.5. Section 9405 of the Commercial Code, as added by Section 7.5 of Chapter 656 of the Statutes of 1995, is amended to read:

9405. (1) A secured party of record may by a writing release his or her security interest in all or a part of the collateral covered by a filed financing statement. A statement of release is sufficient if it is signed by the secured party of record, contains a statement describing the collateral being released, the name of the debtor, and the file number of the original financing statement.

(2) The filing officer shall mark each such statement with the date and time of filing and index the same under the name of the debtor and under the file number of the original financing statement.

(3) The uniform fee for filing, indexing and furnishing filing data (subdivision (1) of Section 9407) for a statement of release on a form conforming to standards prescribed by the Secretary of State shall be five dollars ($5) or, if such a statement otherwise conforms to the requirements of this section, ten dollars ($10).

(4) This section shall become operative on January 1, 2000.

SEC. 9. Section 9406 of the Commercial Code, as amended by Section 8 of Chapter 656 of the Statutes of 1995, is amended to read:

9406. (1) If a secured party assigns all or part of his or her security interest in all or part of collateral covered by a filed financing statement, a statement of assignment may be filed. The statement shall be signed by the secured party and shall give the name and mailing address of the assignee, the names of the assignor secured party and the debtor, the file number of the original financing statement, and, if the assignment is less than a full assignment of all of the security interest in all of the collateral covered by the filed financing statement, a description of the collateral affected by the assignment.

(2) The filing officer shall mark each such statement of assignment with the date and time of filing and shall index the same under the name of the debtor and under the file number of the original financing statement.

(3) A statement of assignment may be filed at the time of the filing of the financing statement, in which event the filing officer shall first file the financing statement and index the assignment under the name of the debtor and under the file number given the financing statement. An assignment endorsed on the financing statement before it is filed with the filing officer need not be indexed by the filing officer.

(4) The uniform fee for filing, indexing and furnishing filing data (subdivision (1) of Section 9407) for a separate statement of assignment on a form conforming to standards prescribed by the Secretary of State shall be twenty dollars ($20) or, if such a statement otherwise conforms to the requirements of this section, thirty dollars ($30).

(5) Whenever a continuation statement, an amendment to a financing statement, a termination statement, a statement of release or a statement of assignment signed by one other than the secured party of record is presented for filing it must be accompanied by a statement of assignment signed by the secured party of record covering the collateral to which such continuation statement, amendment, termination statement, release, or assignment applies.

(6) Wherever in this code reference is made to the secured party of record it means the secured party named in the original financing statement or, if a statement of assignment has been filed, or an assignee has been named in the financing statement before it is filed, the assignee of the security interest in the collateral affected. Any continuation statement, amendment to a financing statement, termination statement, statement of release or statement of assignment signed by one other than the secured party of record as to the collateral affected thereby shall be ineffective for any purpose except as between the parties thereto.

(7) 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. 9.5. Section 9406 of the Commercial Code, as added by Section 8.5 of Chapter 656 of the Statutes of 1995, is amended to read:

9406. (1) If a secured party assigns all or part of his or her security interest in all or part of collateral covered by a filed financing statement, a statement of assignment may be filed. The statement shall be signed by the secured party and shall give the name and mailing address of the assignee, the names of the assignor secured party and the debtor, the file number of the original financing statement, and, if the assignment is less than a full assignment of all of the security interest in all of the collateral covered by the filed financing statement, a description of the collateral affected by the assignment.

(2) The filing officer shall mark each such statement of assignment with the date and time of filing and shall index the same under the name of the debtor and under the file number of the original financing statement.

(3) A statement of assignment may be filed at the time of the filing of the financing statement, in which event the filing officer shall first file the financing statement and index the assignment under the name of the debtor and under the file number given the financing statement. An assignment endorsed on the financing statement

before it is filed with the filing officer need not be indexed by the filing officer.

(4) The uniform fee for filing, indexing and furnishing filing data (subdivision (1) of Section 9407) for a separate statement of assignment on a form conforming to standards prescribed by the Secretary of State shall be five dollars ($5) or, if such a statement otherwise conforms to the requirements of this section, ten dollars ($10).

(5) Whenever a continuation statement, an amendment to a financing statement, a termination statement, a statement of release or a statement of assignment signed by one other than the secured party of record is presented for filing it must be accompanied by a statement of assignment signed by the secured party of record covering the collateral to which such continuation statement, amendment, termination statement, release, or assignment applies.

(6) Wherever in this code reference is made to the secured party of record it means the secured party named in the original financing statement or, if a statement of assignment has been filed, or an assignee has been named in the financing statement before it is filed, the assignee of the security interest in the collateral affected. Any continuation statement, amendment to a financing statement, termination statement, statement of release or statement of assignment signed by one other than the secured party of record as to the collateral affected thereby shall be ineffective for any purpose except as between the parties thereto.

(7) This section shall become operative on January 1, 2000.

SEC. 10. Section 9407 of the Commercial Code is amended to read:

9407. (1) If the person filing any financing statement, amendment, termination statement, statement of assignment, continuation statement, or statement of release, furnishes the filing officer with a copy thereof, the filing officer shall upon request note upon the copy of a financing statement the file number and upon the copy of any of these statements the date and time of the filing of the original and deliver or send the copy to the filing person.

(2) Upon request of any person, the filing officer shall issue his or her certificate showing whether there is on file on the date and time stated therein, any presently effective financing statement naming a particular debtor and any statement of assignment thereof and if there is, giving the date and time of filing of each statement and the names and addresses of each secured party therein. Upon request, the filing officer shall furnish a copy of any filed financing statement or related filings. If the filing officer is a county recorder, the fee for a certificate for each name searched shall be set by the filing officer in an amount that covers actual costs, but that, in no event, exceeds fifteen dollars ($15), and the fee for copies shall be in accordance with Section 27366 of the Government Code. If the filing officer is the Secretary of State, the certificate shall be issued as part of a combined

certificate pursuant to Section 9409 of the Commercial Code, and the fee for the certificate and copies shall be in accordance with that section.

(3) Fees to be charged by the Secretary of State for daily or less frequent summaries or compilations of filings, which he or she may furnish, shall be sufficient to pay at least the actual cost of that service. Fees shall be determined by the Secretary of State with the approval of the Department of Finance. These summaries or compilations may be in the form of microfilm copies or any other form as may be provided for the required information.

(4) The amendments to subdivision (2) of this section, as enacted by the Legislature at the 1997–98 Regular Session, shall become operative June 1, 1998.

SEC. 11. Section 721 of the Evidence Code is amended to read:

721. (a) Subject to subdivision (b), a witness testifying as an expert may be cross-examined to the same extent as any other witness and, in addition, may be fully cross-examined as to (1) his or her qualifications, (2) the subject to which his or her expert testimony relates, and (3) the matter upon which his or her opinion is based and the reasons for his or her opinion.

(b) If a witness testifying as an expert testifies in the form of an opinion, he or she may not be cross-examined in regard to the content or tenor of any scientific, technical, or professional text, treatise, journal, or similar publication unless any of the following occurs:

(1) The witness referred to, considered, or relied upon such publication in arriving at or forming his or her opinion.

(2) The publication has been admitted in evidence.

(3) The publication has been established as a reliable authority by the testimony or admission of the witness or by other expert testimony or by judicial notice.

If admitted, relevant portions of the publication may be read into evidence but may not be received as exhibits.

SEC. 12. Section 12583 of the Government Code is amended to read:

12583. The filing, registration, and reporting provisions of this article do not apply to the United States, any state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or to any of their agencies or governmental subdivisions, to any religious corporation sole or other religious corporation or organization that holds property for religious purposes, or to any officer, director, or trustee thereof who holds property for like purposes, to a cemetery corporation regulated under Chapter 19 (commencing with Section 9600) of Division 3 of the Business and Professions Code, or to any committee as defined in Section 82013 that is required to and does file any statement pursuant to Article 2 (commencing with Section 84200) of Chapter 4 of Title 9, or to a charitable corporation organized and operated primarily as a religious organization, educational institution, hospital,

or a health care service plan licensed pursuant to Section 1349 of the Health and Safety Code.

SEC. 13. Section 68616 of the Government Code, as amended by Section 16 of Chapter 1159 of the Statutes of 1996, is amended to read:

68616. Delay reduction rules shall not require shorter time periods than as follows:

(a) Service of the complaint within 60 days after filing. Exceptions, for longer periods of time, (1) may be granted as authorized by local rule and (2) shall be granted on a showing that service could not reasonably be achieved within the time required with the exercise of due diligence consistent with the amount in controversy.

(b) Service of responsive pleadings within 30 days after service of the complaint. The parties may stipulate to an additional 15 days. Exceptions, for longer periods of time, may be granted as authorized by local rule.

(c) Time for service of notice or other paper under Sections 1005 and 1013 of the Code of Civil Procedure and time to plead after service of summons under Section 412.20 of the Code of Civil Procedure shall not be shortened except as provided in those sections.

(d) Within 30 days of service of the responsive pleadings, the parties may, by stipulation filed with the court, agree to a single continuance not to exceed 30 days.

It is the intent of the Legislature that these stipulations not detract from the efforts of the courts to comply with standards of timely disposition. To this extent, the Judicial Council shall develop statistics that distinguish between cases involving, and not involving, these stipulations.

(e) No status conference, or similar event, other than a challenge to the jurisdiction of the court, may be required to be conducted sooner than 30 days after service of the first responsive pleadings, or no sooner than 30 days after expiration of a stipulated continuance, if any, pursuant to subdivision (d).

(f) Article 3 (commencing with Section 2016) of Chapter 3 of Title 3 of Part 4 of the Code of Civil Procedure shall govern discovery, except in arbitration proceedings.

(g) An order referring an action to arbitration or mediation may be made at any status conference held in accordance with subdivision (e), provided that any arbitration ordered may not commence prior to 210 days after the filing of the complaint, exclusive of the stipulated period provided in subdivision (d). Any mediation ordered pursuant to Section 1775.3 of the Code of Civil Procedure may be commenced prior to 210 days after the filing of the complaint, exclusive of the stipulated period provided in subdivision (d). No rule adopted pursuant to this article may contravene Sections 638 and 639 of the Code of Civil Procedure.

(h) Unnamed (DOE) defendants shall not be dismissed prior to the conclusion of the introduction of evidence at trial, except upon stipulation or motion of the parties.

(i) Notwithstanding Section 170.6 of the Code of Civil Procedure, in direct calendar courts, challenges pursuant to that section shall be exercised within 15 days of the party's first appearance. Master calendar courts shall be governed solely by Section 170.6 of the Code of Civil Procedure.

(j) This section applies to all cases subject to this article which are filed on or after January 1, 1991.

(k) This section shall remain in effect only until January 1, 1999, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1999, deletes or extends that date.

SEC. 13.5. Section 68616 of the Government Code, as amended by Section 16 of Chapter 1159 of the Statutes of 1996, is amended to read:

68616. Delay reduction rules shall not require shorter time periods than as follows:

(a) Service of the complaint within 60 days after filing. Exceptions, for longer periods of time, (1) may be granted as authorized by local rule and (2) shall be granted on a showing that service could not reasonably be achieved within the time required with the exercise of due diligence consistent with the amount in controversy.

(b) Service of responsive pleadings within 30 days after service of the complaint. The parties may stipulate to an additional 15 days. Exceptions, for longer periods of time, may be granted as authorized by local rule.

(c) Time for service of notice or other paper under Sections 1005 and 1013 of the Code of Civil Procedure and time to plead after service of summons under Section 412.20 of the Code of Civil Procedure shall not be shortened except as provided in those sections.

(d) Within 30 days of service of the responsive pleadings, the parties may, by stipulation filed with the court, agree to a single continuance not to exceed 30 days.

It is the intent of the Legislature that these stipulations not detract from the efforts of the courts to comply with standards of timely disposition. To this extent, the Judicial Council shall develop statistics that distinguish between cases involving, and not involving, these stipulations.

(e) No status conference, or similar event, other than a challenge to the jurisdiction of the court, may be required to be conducted sooner than 90 days after the filing of the complaint.

(f) Article 3 (commencing with Section 2016) of Chapter 3 of Title 3 of Part 4 of the Code of Civil Procedure shall govern discovery, except in arbitration proceedings.

(g) An order referring an action to arbitration or mediation may be made at any status conference held in accordance with subdivision

(e), provided that any arbitration ordered may not commence prior to 210 days after the filing of the complaint, exclusive of the stipulated period provided in subdivision (d). Any mediation ordered pursuant to Section 1775.3 of the Code of Civil Procedure may be commenced prior to 210 days after the filing of the complaint, exclusive of the stipulated period provided in subdivision (d). No rule adopted pursuant to this article may contravene Sections 638 and 639 of the Code of Civil Procedure.

(h) Unnamed (DOE) defendants shall not be dismissed prior to the conclusion of the introduction of evidence at trial, except upon stipulation or motion of the parties.

(i) Notwithstanding Section 170.6 of the Code of Civil Procedure, in direct calendar courts, challenges pursuant to that section shall be exercised within 15 days of the party's first appearance. Master calendar courts shall be governed solely by Section 170.6 of the Code of Civil Procedure.

(j) This section applies to all cases subject to this article which are filed on or after January 1, 1991.

(k) This section shall remain in effect only until January 1, 1999, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1999, deletes or extends that date.

SEC. 14. Section 68616 of the Government Code, as amended by Section 17 of Chapter 1159 of the Statutes of 1996, is amended to read:

68616. Delay reduction rules shall not require shorter time periods than as follows:

(a) Service of the complaint within 60 days after filing. Exceptions, for longer periods of time, (1) may be granted as authorized by local rule and (2) shall be granted on a showing that service could not reasonably be achieved within the time required with the exercise of due diligence consistent with the amount in controversy.

(b) Service of responsive pleadings within 30 days after service of the complaint. The parties may stipulate to an additional 15 days. Exceptions, for longer periods of time, may be granted as authorized by local rule.

(c) Time for service of notice or other paper under Sections 1005 and 1013 of the Code of Civil Procedure and time to plead after service of summons under Section 412.20 of the Code of Civil Procedure shall not be shortened except as provided in those sections.

(d) Within 30 days of service of the responsive pleadings, the parties may, by stipulation filed with the court, agree to a single continuance not to exceed 30 days.

It is the intent of the Legislature that these stipulations not detract from the efforts of the courts to comply with standards of timely disposition. To this extent, the Judicial Council shall develop statistics that distinguish between cases involving, and not involving, these stipulations.

(e) No status conference, or similar event, other than a challenge to the jurisdiction of the court, may be required to be conducted sooner than 30 days after service of the first responsive pleadings, or no sooner than 30 days after expiration of a stipulated continuance, if any, pursuant to subdivision (d).

(f) Article 3 (commencing with Section 2016) of Chapter 3 of Title 3 of Part 4 of the Code of Civil Procedure shall govern discovery, except in arbitration proceedings.

(g) No case may be referred to arbitration prior to 210 days after the filing of the complaint, exclusive of the stipulated period provided for in subdivision (d). No rule adopted pursuant to this article may contravene Sections 638 and 639 of the Code of Civil Procedure.

(h) Unnamed (DOE) defendants shall not be dismissed prior to the conclusion of the introduction of evidence at trial, except upon stipulation or motion of the parties.

(i) Notwithstanding Section 170.6 of the Code of Civil Procedure, in direct calendar courts, challenges pursuant to that section shall be exercised within 15 days of the party's first appearance. Master calendar courts shall be governed solely by Section 170.6 of the Code of Civil Procedure.

(j) This section applies to all cases subject to this article which are filed on or after January 1, 1991.

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

SEC. 14.5. Section 68616 of the Government Code, as amended by Section 17 of Chapter 1159 of the Statutes of 1996, is amended to read:

68616. Delay reduction rules shall not require shorter time periods than as follows:

(a) Service of the complaint within 60 days after filing. Exceptions, for longer periods of time, (1) may be granted as authorized by local rule and (2) shall be granted on a showing that service could not reasonably be achieved within the time required with the exercise of due diligence consistent with the amount in controversy.

(b) Service of responsive pleadings within 30 days after service of the complaint. The parties may stipulate to an additional 15 days. Exceptions, for longer periods of time, may be granted as authorized by local rule.

(c) Time for service of notice or other paper under Sections 1005 and 1013 of the Code of Civil Procedure and time to plead after service of summons under Section 412.20 of the Code of Civil Procedure shall not be shortened except as provided in those sections.

(d) Within 30 days of service of the responsive pleadings, the parties may, by stipulation filed with the court, agree to a single continuance not to exceed 30 days.

It is the intent of the Legislature that these stipulations not detract from the efforts of the courts to comply with standards of timely

disposition. To this extent, the Judicial Council shall develop statistics that distinguish between cases involving, and not involving, these stipulations.

(e) No status conference, or similar event, other than a challenge to the jurisdiction of the court, may be required to be conducted sooner than 90 days after the filing of the complaint.

(f) Article 3 (commencing with Section 2016) of Chapter 3 of Title 3 of Part 4 of the Code of Civil Procedure shall govern discovery, except in arbitration proceedings.

(g) No case may be referred to arbitration prior to 210 days after the filing of the complaint, exclusive of the stipulated period provided for in subdivision (d). No rule adopted pursuant to this article may contravene Sections 638 and 639 of the Code of Civil Procedure.

(h) Unnamed (DOE) defendants shall not be dismissed prior to the conclusion of the introduction of evidence at trial, except upon stipulation or motion of the parties.

(i) Notwithstanding Section 170.6 of the Code of Civil Procedure, in direct calendar courts, challenges pursuant to that section shall be exercised within 15 days of the party's first appearance. Master calendar courts shall be governed solely by Section 170.6 of the Code of Civil Procedure.

(j) This section applies to all cases subject to this article which are filed on or after January 1, 1991.

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

SEC. 15. Section 13.5 of this bill incorporates amendments to Section 68616 of the Government Code, as amended by Section 16 of Chapter 1159 of the Statutes of 1996, proposed by both this bill and SB 19. 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 68616 of the Government Code, as amended by Section 16 of Chapter 1159 of the Statutes of 1996, and (3) this bill is enacted after SB 19, in which case Section 13 of this bill shall not become operative.

SEC. 16. Section 14.5 of this bill incorporates amendments to Section 68616 of the Government Code, as amended by Section 17 of Chapter 1159 of the Statutes of 1996, proposed by both this bill and SB 19. 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 68616 of the Government Code, as amended by Section 17 of Chapter 1159 of the Statutes of 1996, and (3) this bill is enacted after SB 19, in which case Section 14 of this bill shall not become operative.

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## CHAPTER 893

An act to add Sections 17016, 17017.2, 17032.5, 17042, 17042.9, 17047.6, 17150, 17182, 17183, 17199.3, 17215, and 38060 to, to add and

repeal Section 17199.4 of, to repeal Sections 17716, 17717.2, 17732.5, 17742, 17742.9, 17747.6, 17850, 17882, 17883, 17899.3, and 17899.4 of, and to add and repeal Sections 15100.5, 15122.5, 15300, 15301, 15303, 15320, 15322, 15323, 15324, 15326, 15327, 15334.5, 15336, 15342, 15349, 15350, 15351, 15352, 15353, 15356, 15357, 15358, 15359, 15359.1, 15359.2, 15380, 15381, 15384, 15390, 15391, 15400, 15401, 15403, 15404, 15405, 15410, 15411, 15412, 15421, 15425, 17001.5, 17042.7, 17224, and 39005 of, the Education Code, relating to schools.

[Approved by Governor October 11, 1997. Filed with
Secretary of State October 12, 1997.]

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

SECTION 1. Section 15100.5 of the Education Code, as added by Chapter 729 of the Statutes of 1996, is repealed.

SEC. 2. Section 15100.5 is added to Article 1 (commencing with Section 15100) of Chapter 1 of Part 10 of the Education Code, to read:

15100.5. Except as otherwise provided by law, the governing board of the Peralta Community College District may, when in its judgment it is advisable, order the county superintendent of schools to call an election to be conducted pursuant to this chapter and submit to the electors of the district the question of whether the proceeds of previously authorized but unissued bonds of the district may be used for a purpose or purposes in addition to the purposes for which the previously approved bonds were authorized by the electors.

The governing board may, by order entered into its minutes, call for an election to expand the purposes of prior authorized but unissued bonds either as a single proposition on the ballot or combined with the question of issuing new bonds of the district for any purpose or purposes permitted by law.

If two-thirds of the votes cast on the question of expanding the purposes for which the proceeds of previously authorized but unissued bonds of the district may be used, or the combined question of expanding the purposes for which the proceeds of previously authorized but unissued bonds of the district and issuing newly authorized bonds of the district, are in favor of the proposition, the district may use the proceeds of the previously authorized but unissued bonds for the expanded purposes and may issue newly authorized bonds, as the case may be.

SEC. 3. Section 15122.5 of the Education Code, as added by Chapter 548 of the Statutes of 1996, is repealed.

SEC. 4. Section 15122.5 is added to Article 2 (commencing with Section 15120) of Chapter 2 of Part 10 of the Education Code, to read:

15122.5. (a) Whenever an election is called on the question of whether bonds of a school district shall be issued and sold for the purposes specified in Section 15100 and the project to be funded by

the bonds will require state matching funds for any phase of the project, the sample ballot shall contain a statement, as provided in subdivision (b), advising the voters that the project is subject to the approval of state matching funds and, therefore, passage of the bond measure is not a guarantee that the project will be completed.

(b) The words to appear in the sample ballot in satisfaction of the requirements of subdivision (a) are as follows:

“Approval of Measure ________ does not guarantee that the proposed project or projects in the ________ School District that are the subject of bonds under Measure ________ will be funded beyond the local revenues generated by Measure ________. The school district’s proposal for the project or projects may assume the receipt of matching state funds, which could be subject to appropriation by the Legislature or approval of a statewide bond measure.”

(c) This section does not apply to any election to incur bonded indebtedness pursuant to the Mello-Roos Community Facilities Act of 1982 contained in Chapter 2.5 (commencing with Section 53311) of Division 2 of Title 5 of the Government Code.

SEC. 5. Section 15300 of the Education Code, as amended by Chapter 1072 of the Statutes of 1996, is repealed.

SEC. 6. Section 15300 is added to Article 1 (commencing with Section 15300) of Chapter 2 of Part 10 of the Education Code, to read:

15300. This chapter provides a method for the formation of school facilities improvement districts consisting of a portion of the territory within a school district or community college district and for the issuance of general obligation bonds by a school facilities improvement district.

SEC. 7. Section 15301 of the Education Code, as amended by Chapter 1072 of the Statutes of 1996, is repealed.

SEC. 8. Section 15301 is added to Article 1 (commencing with Section 15300) of Chapter 2 of Part 10 of the Education Code, 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 set forth 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 Communities Facilities Act of 1982 (Ch. 2.5 (commencing with Sec. 53311), Pt. 1, Div. 2, Title 5, Gov. C.). 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. 8.5. Section 15301 is added to Article 1 (commencing with Section 15300) of Chapter 2 of Part 10 of the Education Code, 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 set forth 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 Communities Facilities Act of 1982 (Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5 of the Government Code). 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).

(d) The governing body of a school district or community college district that proceeds under this chapter shall comply with the filing requirements established by Section 54902 of the Government Code. Any plat or map that is filed pursuant to this subdivision shall specifically identify any property located within the school district or community college district that is not located within the improvement district established by the school district or community college district pursuant to this chapter.

SEC. 9. Section 15303 of the Education Code, as amended by Chapter 1072 of the Statutes of 1996, is repealed.

SEC. 10. Section 15303 is added to Article 1 (commencing with Section 15300) of Chapter 2 of Part 10 of the Education Code, to read:

15303. This chapter shall not be operative in any county or counties until the board of supervisors of either the county in which the county superintendent of schools having jurisdiction over the school district or community college district in which the school facilities improvement district is located or, if a school facilities improvement district lies in two or more counties, the board of supervisors for those counties, by resolution adopted by a majority vote of the board of supervisors, makes this chapter applicable in the county or counties.

SEC. 11. Section 15320 of the Education Code, as amended by Chapter 1072 of the Statutes of 1996, is repealed.

SEC. 12. Section 15320 is added to Article 2 (commencing with Section 15320) of Chapter 2 of Part 10 of the Education Code, 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.

(h) 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. 13. Section 15322 of the Education Code, as amended by Chapter 1072 of the Statutes of 1996, is repealed.

SEC. 14. Section 15322 is added to Article 2 (commencing with Section 15320) of Chapter 2 of Part 10 of the Education Code, to read:

15322. The governing board of the school district or community college district shall hold the hearing provided for by resolution of intention at the time and place fixed by that resolution. Any interested person, including, but not limited to, all persons owning land in the school district, or in the proposed school facilities improvement district or community college district, may appear and be heard concerning any matters set forth in the resolution of intention.

SEC. 15. Section 15323 of the Education Code, as amended by Chapter 1072 of the Statutes of 1996, is repealed.

SEC. 16. Section 15323 is added to Article 2 (commencing with Section 15320) of Chapter 2 of Part 10 of the Education Code, to read:

15323. At the hearing, the governing board of the school district or community college district may adopt a resolution proposing modifications, consistent with Section 15302, of the purpose stated in the resolution of intention. A resolution proposing modification shall describe the proposed modifications, state the change, if any, in the estimated cost of carrying out the purpose, and shall fix a time and place for hearing by the governing board.

SEC. 17. Section 15324 of the Education Code, as amended by Chapter 1072 of the Statutes of 1996, is repealed.

SEC. 18. Section 15324 is added to Article 2 (commencing with Section 15320) of Chapter 2 of Part 10 of the Education Code, to read:

15324. The governing board of the school district or community college district shall publish the resolution proposing the modifications to the resolution of intention once in the same

newspaper in which the resolution of intention was published at least 14 days prior to the date of hearing on the proposed modifications.

SEC. 19. Section 15326 of the Education Code, as amended by Chapter 1072 of the Statutes of 1996, is repealed.

SEC. 20. Section 15326 is added to Article 2 (commencing with Section 15320) of Chapter 2 of Part 10 of the Education Code, to read:

15326. At the conclusion of the hearing on the resolution of intention and of the hearing, if any, upon proposed modifications, the governing board may by resolution order the school facilities improvement district formed for the purpose and with the boundaries described in the resolution of intention, and, if relevant, the resolution proposing modifications. The resolution ordering the school facilities improvement district formed shall state the estimated cost of carrying out the purpose described in the resolution. The resolution shall also number and designate the school facilities improvement district substantially as "School Facilities Improvement District of the ________ School District" or "School Facilities Improvement District of the ________ Community College District."

SEC. 21. Section 15327 of the Education Code, as amended by Chapter 1072 of the Statutes of 1996, is repealed.

SEC. 22. Section 15327 is added to Article 2 (commencing with Section 15320) of Chapter 2 of Part 10 of the Education Code, 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 school facilities improvement district as the governing board has with respect to the school district or community college district.

SEC. 23. Section 15334.5 of the Education Code, as added by Chapter 1072 of the Statutes of 1996, is repealed.

SEC. 24. Section 15334.5 is added to Article 3 (commencing with Section 15330) of Chapter 2 of Part 10 of the Education Code, to read:

15334.5. Notwithstanding any other provision of law, no bonded indebtedness may be incurred pursuant to this chapter in an amount that would cause the bonded indebtedness of the territory of the school district or community college district of which the school facilities improvement district is a part, to exceed the limitation of indebtedness specified in Sections 15102 and 15106. No bonded indebtedness may be incurred pursuant to this chapter in an amount that would cause the bonded indebtedness of the territory of the school facilities improvement district to exceed the limitation of indebtedness specified in Sections 15330 and 15332.

SEC. 25. Section 15336 of the Education Code, as added by Chapter 1072 of the Statutes of 1996, is repealed.

SEC. 26. Section 15336 is added to Article 3 (commencing with Section 15330) of Chapter 2 of Part 10 of the Education Code, to read:

15336. Within 30 days after the end of each fiscal year, the governing board of the school district or community college district in which the school facilities improvement district is located shall submit a report containing the information to an election held pursuant to Article 4 (commencing with Section 15340), to the county superintendent of schools who has jurisdiction over the school district or community college district:

(a) The total amount of the bond issue, bonded indebtedness, or other indebtedness involved.

(b) The percentage of qualified electors who are residents of the school facilities improvement district who voted at the election.

(c) The results of the election, with the percentage of votes cast for and against the proposition involved.

SEC. 27. Section 15342 of the Education Code, as amended by Chapter 1072 of the Statutes of 1996, is repealed.

SEC. 28. Section 15342 is added to Article 4 (commencing with Section 15340) of Chapter 2 of Part 10 of the Education Code, to read:

15342. Any one or more of the purposes enumerated in Section 15302, except that of refunding any outstanding valid indebtedness of the school facilities improvement district evidenced by bonds, may, by order of the governing board of the school district or community college district in which the school facilities improvement district is located, be united and voted upon in a single proposition.

SEC. 29. Section 15349 of the Education Code, as amended by Chapter 1072 of the Statutes of 1996, is repealed.

SEC. 30. Section 15349 is added to Article 4 (commencing with Section 15340) of Chapter 2 of Part 10 of the Education Code, to read:

15349. If it appears from the certificate of election results that two-thirds of the votes cast by the voters voting on the proposition of issuing bonds of the school facilities improvement district are in favor of issuing the bonds, the governing board of the school district or community college district in which the school facilities improvement district is located shall cause an entry of that fact to be made upon its minutes. The governing board of the school district or community college district shall then certify to the board of supervisors of the county whose superintendent of schools has jurisdiction over the school district or community college district, all proceedings had in the premises. The county superintendent of schools shall send a copy of the certificate of election results to the board of supervisors of the county.

SEC. 31. Section 15350 of the Education Code, as amended by Chapter 1072 of the Statutes of 1972, is repealed.

SEC. 32. Section 15350 is added to Article 5 (commencing with Section 15350) of Chapter 2 of Part 10 of the Education Code, to read:

15350. Bonds of a school facilities improvement district shall be offered for sale by the board of supervisors of the county in which the county superintendent of schools has jurisdiction over the school

district or community college district in which the school facilities improvement district is located as soon as possible, when appropriate, following receipt of a resolution duly adopted by the governing board of that school district or community college district. The resolution shall prescribe the total amount of bonds to be sold. The resolution may also prescribe the maximum acceptable interest rate, not to exceed 8 percent, and the time or times when the whole or any part of the principal of the bonds shall be payable, which shall not be more than 25 years from the date of the bonds.

SEC. 33. Section 15351 of the Education Code, as amended by Chapter 1072 of the Statutes of 1972, is repealed.

SEC. 34. Section 15351 is added to Article 5 (commencing with Section 15350) of Chapter 2 of Part 10 of the Education Code, to read:

15351. When authorized by the governing board of the school district or community college district in which the school facilities improvement district is located, bonds of the school facilities improvement district may be offered for sale as a group by the board of supervisors of the county in which the county superintendent of schools has jurisdiction over the school district or community college district in which the school facilities improvement district is located, at a time determined by the board of supervisors following receipt of a resolution duly adopted by the governing board of that school district or community college district. The resolution shall prescribe the total amount of bonds to be sold. The resolution may also prescribe the maximum acceptable interest rate, not to exceed 8 percent, and the time or times when the whole or any part of the principal of the bonds shall be payable, which shall not be more than 25 years from the date of the bonds. Bidders shall be required to bid a lump-sum bid on all bonds as a group. If bids satisfactory to the governing board of each school district or community college district in which a school facilities improvement district is located are received, the bonds offered for sale shall be awarded to the bidder whose bid will result in the lowest net interest cost for the group or for the bonds of any district included within the group. Bonds shall be issued and sold in the name of each school facilities improvement district in the same manner as provided in this chapter.

SEC. 35. Section 15352 of the Education Code, as amended by Chapter 1072 of the Statutes of 1972, is repealed.

SEC. 36. Section 15352 is added to Article 5 (commencing with Section 15350) of Chapter 2 of Part 10 of the Education Code, to read:

15352. The bonds shall be issued in the name of the school facilities improvement district and shall be designated "Bonds of the School Facilities Improvement District of the ________ School District" or "Bonds of the School Facilities Improvement District of the ________ Community College District" and each bond and all interest coupons shall state that the tax for the payment thereof shall be limited to annual taxes to be levied upon

and collected from the lands within the school facilities improvement district.

SEC. 37. Section 15353 of the Education Code, as amended by Chapter 1072 of the Statutes of 1972, is repealed.

SEC. 38. Section 15353 is added to Article 5 (commencing with Section 15350) of Chapter 2 of Part 10 of the Education Code, to read:

15353. The bonds shall be issued in the denomination or denominations as the board of supervisors of the county in which the county superintendent of schools has jurisdiction over the school district or community college district in which the school facilities improvement district is located may prescribe.

SEC. 39. Section 15356 of the Education Code, as amended by Chapter 1072 of the Statutes of 1972, is repealed.

SEC. 40. Section 15356 is added to Article 5 (commencing with Section 15350) of Chapter 2 of Part 10 of the Education Code, 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. 41. Section 15357 of the Education Code, as amended by Chapter 1072 of the Statutes of 1972, is repealed.

SEC. 42. Section 15357 is added to Article 5 (commencing with Section 15350) of Chapter 2 of Part 10 of the Education Code, to read:

15357. The board of supervisors shall establish within the county treasury a school facilities improvement fund for each school facilities improvement district the purpose of depositing the proceeds of the bonds issued pursuant to this chapter. The board of supervisors shall also establish within the county treasury a school facilities improvement bond interest and sinking fund for each school facilities improvement district.

SEC. 43. Section 15358 of the Education Code, as amended by Chapter 1072 of the Statutes of 1972, is repealed.

SEC. 44. Section 15358 is added to Article 5 (commencing with Section 15350) of Chapter 2 of Part 10 of the Education Code, to read:

15358. (a) The bonds shall be issued by the board of supervisors, payable out of the interest and sinking fund of the school facilities improvement district. The board of supervisors, in its discretion, and without further authorization from the governing board of the school district or community college district in which the school facilities improvement district is located, may sell the bonds at a negotiated sale or by competitive bidding. The bonds may be sold at a discount not to exceed 5 percent and at an interest rate not exceeding the maximum permitted by Section 15354. If the sale is by competitive bid, the board of supervisors shall comply with the provisions of Sections 15359 and 15359.1. The bonds shall be sold by the board of supervisors no later than the date designated by the governing board of the school district or community college district in which the school facilities improvement district is located as the final date for the sale of the bonds.

(b) The proceeds of the sale of the bonds, exclusive of any premium received, shall be deposited in the county treasury to the credit of the school facilities improvement fund of the school facilities improvement district. The proceeds deposited shall be drawn out as necessary to finance the purposes approved by the voters pursuant to this chapter. The bond proceeds withdrawn shall not be applied to any other purposes than those for which the bonds were issued. Any premium or accrued interest received from the sale of the bonds shall be deposited in the interest and sinking fund of the county treasury established for the school facilities improvement district.

SEC. 45. Section 15359 of the Education Code, as amended by Chapter 1072 of the Statutes of 1972, is repealed.

SEC. 46. Section 15359 is added to Article 5 (commencing with Section 15350) of Chapter 2 of Part 10 of the Education Code, 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 some daily or weekly newspaper of general circulation published in the county whose county superintendent of schools has jurisdiction over the governing board of the school district 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 some other county in the state having a general circulation in the county.

SEC. 47. Section 15359.1 of the Education Code, as amended by Chapter 1072 of the Statutes of 1972, is repealed.

SEC. 48. Section 15359.1 is added to Article 5 (commencing with Section 15350) of Chapter 2 of Part 10 of the Education Code, to read:

15359.1. (a) If satisfactory bids are received, the bonds offered for sale shall be awarded to the highest responsible bidder or bidders, and the county clerk shall prepare and certify to all of the proceedings on file in his or her office relative to the issuance and sale of the bonds, which transcript of proceedings shall be delivered to the successful bidder or bidders without charge. If no bids are received, or if the board determines that the bids received exceed either the maximum acceptable interest rate prescribed by the governing board or the maximum rate prescribed by Section 15353, or that they are not satisfactory as to price or responsibility of the bidders, the board may reject all bids received, if any, and without further authorization from the governing board of the school district or community college district in which the school facilities improvement district is located, either readvertise or sell the bonds at private sale.

(b) For the purpose of determining whether or not a bid exceeds the maximum acceptable interest rate, the interest rate of that bid shall be deemed to be the interest rate resulting from the total net interest cost arrived at by computing the total amount of interest that the school facilities improvement district would be required to pay from the date of the bonds to the respective maturity dates thereof at the rate or rates specified in the bid and by deducting therefrom any premium bid.

SEC. 49. Section 15359.2 of the Education Code, as amended by Chapter 1072 of the Statutes of 1972, is repealed.

SEC. 50. Section 15359.2 is added to Article 5 (commencing with Section 15350) of Chapter 2 of Part 10 of the Education Code, 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. 51. Section 15380 of the Education Code, as amended by Chapter 1072 of the Statutes of 1972, is repealed.

SEC. 52. Section 15380 is added to Article 8 (commencing with Section 15380) of Chapter 2 of Part 10 of the Education Code, to read:

15380. If any bonds authorized under this chapter have not been offered for sale for one year from the date of the election at which they were authorized or remain unsold for a period of six months after having been offered for sale in the manner prescribed by the board of supervisors, the governing board of the school district or community college district in which the school facilities improvement district is located and for which the bonds were authorized, may petition the board of supervisors that has jurisdiction of the issuance and sale of the bonds to cause the unsold bonds to be canceled.

SEC. 53. Section 15381 of the Education Code, as amended by Chapter 1072 of the Statutes of 1972, is repealed.

SEC. 54. Section 15381 is added to Article 8 (commencing with Section 15380) of Chapter 2 of Part 10 of the Education Code, to read:

15381. Upon receiving the petition, signed by a majority of the members of the governing board of the school district or community college district in which the school facilities improvement district is located, the board of supervisors shall fix a time for a hearing, which shall not be more than 30 days after receipt of the petition, and shall cause a notice stating the time and place of the hearing, and the object of the petition in general terms, to be published for 10 days prior to the hearing, in a newspaper published in the school facilities improvement district if there is one, and if there is no newspaper published in the school facilities improvement district, in a newspaper published at the county seat of the county.

SEC. 55. Section 15384 of the Education Code, as amended by Chapter 1072 of the Statutes of 1972, is repealed.

SEC. 56. Section 15384 is added to Article 8 (commencing with Section 15380) of Chapter 2 of Part 10 of the Education Code, to read:

15384. The governing board of a school district or community college district in which a school facilities improvement district is located may petition the board of supervisors to cancel the remaining authorization of that district to issue and sell bonds resulting from any particular school bond election after the sale of at least 90 percent of the bonds authorized at the election if the amount of the remaining

authorization is not more than twenty-five thousand dollars ($25,000) and in the opinion of the governing board the sale of the remaining bonds would not be economically justified. Sections 15381 and 15382 shall be applicable and at or following the hearing therein provided for, the board of supervisors, if it determines that the public interest will be served thereby, may make and enter an order in the minutes of its proceedings that the remaining authorization be canceled. Upon the entry of the order, the vote by which the remaining authorization was created shall cease to be of any validity with respect to the remaining authorization.

SEC. 57. Section 15390 of the Education Code, as amended by Chapter 1072 of the Statutes of 1972, is repealed.

SEC. 58. Section 15390 is added to Article 9 (commencing with Section 15390) of Chapter 2 of Part 10 of the Education Code, to read:

15390. The governing board of a school district or community college district in which a school facilities improvement district is located may purchase in the open market bonds issued by the school facilities improvement district with available funds from the school facilities improvement fund.

SEC. 59. Section 15391 of the Education Code, as amended by Chapter 1072 of the Statutes of 1972, is repealed.

SEC. 60. Section 15391 is added to Article 9 (commencing with Section 15390) of Chapter 2 of Part 10 of the Education Code, to read:

15391. When any bonds issued by a school facilities improvement district have been purchased by the governing board of the school district or community college district in which the school facilities improvement district is located, the bonds shall be deemed canceled and of no further validity. The governing board of the school district or community college district in which the school facilities improvement district is located shall immediately, after purchasing the bonds, notify the board of supervisors of its action, describing the bonds purchased. At its first meeting thereafter, the board of supervisors shall note the purchase and cancellation of the bonds in the minutes of its proceedings.

SEC. 61. Section 15400 of the Education Code, as amended by Chapter 1072 of the Statutes of 1972, is repealed.

SEC. 62. Section 15400 is added to Article 10 (commencing with Section 15400) of Chapter 2 of Part 10 of the Education Code, to read:

15400. (a) The board of supervisors, by an order entered upon its minutes, shall fix the time when the whole or any part of the principal of the bonds shall be payable, which shall not be more than 25 years from the date of the bonds. If the governing board of the school district or community college district in which the school facilities improvement district is located has prescribed in its resolution the time or times when the whole or any part of the bonds shall be payable, the times and amounts shall be fixed by the order of the board of supervisors.

(b) Any bonds may be issued subject to call and redemption before maturity at the option of the governing board of the school district or community college district in which the school facilities improvement district exists. The governing board may include in its resolution a requirement that all or any part of the bonds shall be issued subject to call and redemption before maturity and the price or prices at which said bonds shall be redeemed. The board of supervisors, in its order fixing the form of the bonds and the maturities thereof, shall provide that the bonds be redeemable at the option of the governing board and at the price or prices fixed in the resolution. Bonds issued subject to call and redemption prior to maturity shall contain a recital to that effect, and no bond shall be subject to call or redemption prior to maturity unless it contains the recital. The board of supervisors in its order shall fix the method of giving notice of redemption to holders of bonds to be redeemed.

SEC. 63. Section 15401 of the Education Code, as amended by Chapter 1072 of the Statutes of 1972, is repealed.

SEC. 64. Section 15401 is added to Article 10 (commencing with Section 15400) of Chapter 2 of Part 10 of the Education Code, to read:

15401. The board of supervisors, at the direction of the governing board of the school district or community college district in which the school facilities improvement district is located, may divide the principal amount of bonds authorized at any election into two or more series and may fix different dates for the bonds of each series, in which event the maximum maturity date of the bonds shall be calculated from the date of each series respectively. When the issuance of bonds shall have been authorized pursuant to two or more propositions submitted at the same or different elections, all or any part of the bonds not theretofore issued may be combined and issued and sold as one or more series.

SEC. 65. Section 15403 of the Education Code, as amended by Chapter 1072 of the Statutes of 1972, is repealed.

SEC. 66. Section 15403 is added to Article 10 (commencing with Section 15400) of Chapter 2 of Part 10 of the Education Code, to read:

15403. The principal and interest on the bonds shall be paid by the county treasurer of the county in which the superintendent of schools has jurisdiction of the school district or community college district in which the school facilities improvement district is located, at the place required by the terms of the bonds, upon presentation and surrender of warrants drawn by the county auditor in payment thereof, after he or she has canceled the bonds and coupons, or upon the receipt of the registered owner, if the bonds are registered, after a proper warrant has been drawn by the auditor, out of the fund provided for their payment.

SEC. 67. Section 15404 of the Education Code, as amended by Chapter 1072 of the Statutes of 1972, is repealed.

SEC. 68. Section 15404 is added to Article 10 (commencing with Section 15400) of Chapter 2 of Part 10 of the Education Code, to read:

15404. Upon the order of the auditor, any money remaining in the interest and sinking fund of any school facilities improvement district after the payment of all bonds and coupons payable from the fund, or any money in excess of an amount sufficient to pay all unpaid bonds and coupons payable from the fund, shall be transferred to the general fund of the governing board of the school district or community college district in which the school facilities improvement district is located.

SEC. 69. Section 15405 of the Education Code, as amended by Chapter 1072 of the Statutes of 1972, is repealed.

SEC. 70. Section 15405 is added to Article 10 (commencing with Section 15400) of Chapter 2 of Part 10 of the Education Code, to read:

15405. Any money paid into the county treasury of the county and credited to the interest and sinking fund of any school facilities improvement district remaining after the payment of all bonds and coupons payable from the fund, or which is in excess of an amount sufficient to pay all unpaid bonds and coupons payable from the fund, shall be transferred to the special reserve fund of the school district or community college district in which the school facilities improvement district is located and may be used only for the purpose specified in Section 42840.

SEC. 71. Section 15410 of the Education Code, as amended by Chapter 1072 of the Statutes of 1972, is repealed.

SEC. 72. Section 15410 is added to Article 11 (commencing with Section 15410) of Chapter 2 of Part 10 of the Education Code, to read:

15410. The board of supervisors of the county in which the county superintendent of schools has jurisdiction over a school district or community college district in which a school facilities improvement district is located shall annually at the time of making the levy of taxes for county purposes levy a tax for that year upon the property in the school facilities improvement district for the interest and redemption of all outstanding bonds of the district. The tax shall not be less than sufficient to pay the interest on the bonds as it becomes due and to provide a sinking fund for the payment of the principal on or before maturity and may include an allowance for an annual reserve, established for the purpose of avoiding fluctuating tax levies. The tax shall be sufficient to provide funds for the payment of the interest on the bonds as it becomes due and also that part of the principal and interest as is to become due before the proceeds of a tax levied at the time for making the next general tax levy can be made available for the payment of the principal and interest.

SEC. 73. Section 15411 of the Education Code, as amended by Chapter 1072 of the Statutes of 1972, is repealed.

SEC. 74. Section 15411 is added to Article 11 (commencing with Section 15410) of Chapter 2 of Part 10 of the Education Code, to read:

15411. All taxes levied, when collected, shall be paid into the county treasury of the county whose superintendent of schools has jurisdiction over the school district or community college district in

which the school facilities improvement district is located and on behalf of which the tax was levied. All collected tax revenues shall be used exclusively for the payment of the principal and interest of the bonds of the school facilities improvement district, including any sinking fund.

SEC. 75. Section 15412 of the Education Code, as amended by Chapter 1072 of the Statutes of 1972, is repealed.

SEC. 76. Section 15412 is added to Article 11 (commencing with Section 15410) of Chapter 2 of Part 10 of the Education Code, to read:

15412. The board of supervisors of the county whose superintendent of schools has jurisdiction over the school district or community college district in which the school facilities improvement district is located, shall annually at the time of making the levy of taxes for county purposes estimate the amount of money required to meet the payment of the principal and interest on bonds of the district authorized by the electors of the district and not sold, and that the governing board of the school district or community college district informs the board on their belief will be sold before the next tax levy, and the board of supervisors shall levy a tax sufficient to pay the principal and interest so estimated.

SEC. 77. Section 15421 of the Education Code, as amended by Chapter 1072 of the Statutes of 1972, is repealed.

SEC. 78. Section 15421 is added to Article 12 (commencing with Section 15420) of Chapter 2 of Part 10 of the Education Code, to read:

15421. (a) The tax shall be entered upon the assessment roll and collected in the same manner as other on real property.

(b) The tax when collected shall be paid into the county treasury of the county. The treasurer of any county, other than the one whose superintendent of schools has jurisdiction over the school district or community college district in which the school facilities improvement district is located, shall, upon order of the county auditor, pay the sum collected on account of the tax into the treasury of the county whose superintendent of schools has jurisdiction over the school district or community college district in which the community facilities district is located.

SEC. 79. Section 15425 of the Education Code, as amended by Chapter 1072 of the Statutes of 1972, is repealed.

SEC. 80. Section 15425 is added to Article 13 (commencing with Section 15425) of Chapter 2 of Part 10 of the Education Code, to read:

15425. Notwithstanding any other provision of this chapter, it is the intent of the Legislature that the rate of taxes levied annually upon the property in a school facilities improvement district formed pursuant to subdivision (a) of Section 15301 not be greater than the rate of the annual special tax levied upon parcels in the same school district or community college district that are part of a community facilities district formed pursuant to the Mello-Roos Community Facilities Act of 1982, as set forth in Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5 of the Government

Code. A determination by the governing board of a school district or community college district, made at the time bonds are sold pursuant to this chapter, that the rate of taxes to be levied annually upon the property in the school facilities improvement district, based upon tax rate estimates prepared pursuant to Section 9401 of the Elections Code, does not exceed the rate of the annual special tax levied upon parcels in the same school district or community college district that are part of a community facilities district formed pursuant to the Mello-Roos Community Facilities Act of 1982, shall be conclusive evidence of compliance with the intent of this section.

SEC. 81. Section 17701.5 of the Education Code, as added by Chapter 478 of the Statutes of 1996, is repealed.

SEC. 82. Section 17001.5 is added to the Education Code, to read:

17001.5. (a) The Legislature hereby finds and declares the following:

(1) Some believe that the school facilities construction requirements set forth in this chapter have become lengthy, complex, and heavily controlled by the various state agencies involved in the review and approval process. As a result, some believe that school facilities are often overcrowded and construction costs are higher than necessary.

(2) Some believe that a streamlining of the approval process set forth in this chapter is necessary to efficiently provide the children of the state with needed classrooms in the most expeditious and cost-effective manner. Some expect that other savings can be achieved by increased standardization of plans for school design and construction and the appropriate use of portable classrooms.

(b) Not later than July 1, 1997, the Joint Committee on School Facilities shall complete and submit a report to the Governor and the Legislature containing recommendations for doing the following:

(1) Increasing privatization and standardization, and other measures for streamlining the approval process set forth in this chapter.

(2) Reducing the costs of school construction.

(3) Increasing the local authority over the approval of site acquisition and of plans and specifications for school facilities construction.

SEC. 83. Section 17016 is added to the Education Code, to read:

17016. (a) The board, by the adoption of rules, may establish priorities for the construction and leasing of projects to those school districts the pupils of which will benefit most. The board may make exceptions from established priorities when it determines that to do so will benefit the pupils affected.

(b) The board may adopt rules establishing priorities for the acquisition and leasing of portable classrooms to county superintendents of schools that will most benefit pupils needing a county community school. The board shall require each county superintendent of schools who leases portable classrooms pursuant to

Section 17717.2 to demonstrate that the portable classrooms are utilized solely for operation of a county community school.

SEC. 84. Section 17017.2 is added to the Education Code, to read:

17017.2. (a) The board may own, have maintained, and lease portable classrooms to any county superintendent of schools who provides a county community school program, as defined in Section 1986. These portable classrooms shall be adequately equipped to meet the educational needs of these pupils, including, but not limited to, sinks and restroom facilities.

(b) The board, with the advice of the Superintendent of Public Instruction, may have portable classrooms constructed, furnished, or equipped, and may otherwise require whatever work is necessary to place portable classrooms for county community schools where needed, including the acquisition and preparation of sites. The board shall, in consultation with the Superintendent of Public Instruction, establish standards for the acquisition of land, with land acquisition limited to no more than 10,000 square feet per portable classroom, waivable by the board only as needed to meet local zoning and land use requirements or health and safety considerations.

(c) A county superintendent of schools who desires to lease portable classrooms shall have prepared for the board's use performance specifications for portable classrooms and bids for their construction that can be solicited from more than one responsible bidder.

(d) No portable classroom shall be made available to a county superintendent of schools unless the county superintendent of schools furnishes evidence, satisfactory to the board, that the county superintendent of schools has no other facility available for rental, lease, or purchase in the geographic service area that is economically or otherwise feasible.

(e) If at any time the board determines that a lessee's need for particular portable classrooms that were made available to the lessee pursuant to this chapter has ceased, the board may take possession of the portable classrooms and may lease them to other county superintendents of schools or, if there is no longer a need for portable classrooms, the board may dispose of them to public or private parties in the manner it deems to be in the best interest of the state.

(f) This section does not limit the authority of a county superintendent of schools to provide facilities without assistance from the board for pupils who are enrolled in a county community school.

SEC. 85. Section 17032.5 is added to the Education Code, to read:

17032.5. The board shall establish the annual rent and conditions to be met by the lessee of a portable classroom leased pursuant to Section 17717.2 and shall require lessees to undertake all necessary maintenance, repairs, renewals, and replacements to ensure that a project is at all times kept in good repair, working order, and

condition. All costs incurred for this purpose shall be borne by the lessee.

SEC. 86. Section 17042 is added to the Education Code, to read:

17042. (a) The board, by the adoption of rules, shall provide for the manner of determining the area of adequate school construction existing in an applicant school district at the time of application. Those rules shall define and provide for the method of determining building areas that are to be included in, in whole or in part, or to be excluded from, the area of existing adequate school construction. Any building to which Article 3 (commencing with Section 39140) of Chapter 1 of Part 23 of Division 3 of Title 2 does not apply shall not be considered adequate school construction for the purpose of determining the maximum total building area per attendance unit.

The board may make exceptions to the provisions of this section, or to the rules adopted pursuant thereto, if it determines that the exception or exceptions will be for the benefit of pupils affected.

(b) For the purposes of this chapter, the area of adequate school construction existing in an applicant school district does not include any of the following:

(1) Any portable classroom made available to the district under Chapter 25 (commencing with Section 17785).

(2) In any school operated on a year-round schedule, any building area that has been in continuous use during the preceding five-year period primarily for the operation of any preschool program or programs.

(3) Any building area, not to exceed the area that is equivalent to one classroom per schoolsite, used to provide support services pursuant to Chapter 5 (commencing with Section 8800) of Part 6 or to provide integrated children's services pursuant to Section 18986.40 of the Welfare and Institutions Code. A school shall meet the definition of a "qualifying school" under paragraph (1) of subdivision (h) of Section 8802 to qualify for this exemption from the area of adequate school construction.

(4) Any classroom acquired or constructed and continuously used by the school district primarily for the purpose of reducing class size in kindergarten or in any of grades 1 to 3, inclusive, pursuant to the school district's participation in the Class Size Reduction Program contained in Chapter 6.10 (commencing with Section 52120) of Part 28.

(5) Any classroom acquired or constructed for the purpose of operating a community day school pursuant to Section 48660, if the classroom is not located on a regular elementary, middle, junior high, or senior high school site.

(c) The board may make exceptions to this section, or to the rules adopted pursuant thereto, if it determines that the exception or exceptions will be for the benefit of pupils affected.

SEC. 87. Section 17042.7 of the Education Code, as added by Chapter 277 of the Statutes of 1996, is repealed.

SEC. 88. Section 17042.7 is added to the Education Code, to read:

17042.7. (a) For any project application filed or amended on or after January 1, 1993, the area of adequate school construction existing in the applicant school district or, where appropriate, in the attendance area, at the time of application shall be calculated pursuant to the following formula:

(1) Identify by grade level all teaching stations existing in the school district or, where appropriate, the attendance area, as of January 1, 1993. For the purposes of this section, "teaching station" means any space that was constructed or reconstructed to serve as an area in which to provide pupil instruction.

(2) Determine the maximum pupil loading figure for each grade level pursuant to the district pupil loading standards in effect on January 1, 1993. For the purposes of this section, the "district pupil loading standards" are those pupil loading standards in effect in a school district on July 1, 1992, as a result of actions including, but not necessarily limited to, the execution of a collective bargaining agreement or the adoption of a district policy by the governing board of the school district. In no event may this figure be more than the maximum pupil loading standards established by the board, or less than three pupil units lower than those maximum pupil loading standards.

(3) Multiply the figure determined under paragraph (2) for each grade level by the number of teaching stations for the particular grade level, as determined under paragraph (1).

(4) Multiply the product determined under paragraph (3) by the maximum area allowance established for that grade level under this article.

(5) The sum of these computations for each grade level, as determined under paragraphs (1) to (4), inclusive, shall be the total area of adequate school construction existing in the district or attendance area pursuant to this formula.

(b) For purposes of this section, a school district that is participating in a class size reduction program set forth in this code, other than the Class Size Reduction Program (Ch. 6.10 (commencing with Section 52120) of Part 28), shall use the pupil loading standard established pursuant to that program.

(c) The area of existing adequate school construction calculated under this section shall not include, in any school operated on a year-round schedule, any teaching station that has been in continuous use during the preceding five-year period primarily for the operation of a preschool program or programs.

SEC. 89. Section 17042.9 is added to the Education Code, to read:

17042.9. (a) Notwithstanding any other provision of law, a school district that complies with the requirements of subdivision (b) may replace a portable classroom, as defined in Section 17742.5, that has been leased or owned by the district for 20 years or more, with a permanent building if the resulting area of new building construction

is no greater than the area that would be authorized under this chapter for the lease or purchase of a portable classroom.

(b) A school district that utilizes subdivision (a) shall fund its expenses incurred thereby through the issuance of general obligation bonds by the district or by the issuance of bonds pursuant to the Mello-Roos Community Facilities Act of 1982 (Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5 of the Government Code) or by any other financing mechanism that does not encumber the school district's general fund.

SEC. 90. Section 17047.6 is added to the Education Code, to read:

17047.6. The board, with the advice of the Superintendent of Public Instruction, may determine the eligibility of county superintendents of schools to lease portable classrooms provided that a county superintendent of schools is eligible to receive one portable classroom pursuant to this section and Section 17717.2 for each 15 units of average daily attendance at county community schools in excess of the amount of average daily attendance claimed by the county superintendent of schools in the prior fiscal year except that, for pupils who are enrolled in a county community school and on independent study, only time spent in the classroom shall be included in the calculation of average daily attendance.

SEC. 91. Section 17150 is added to Chapter 16 (commencing with Section 17150) of Part 10 of the Education Code, to read:

17150. (a) Upon the approval by the governing board of the school district to proceed with the issuance of certificates of participation revenue bonds or to enter into any agreement for financing school construction pursuant to Chapter 28 (commencing with Section 17870), the school district shall notify the county superintendent of schools and the county auditor. The superintendent of the school district shall provide the repayment schedules for that debt obligation, and evidence of the ability of the school district to repay that obligation, to the county auditor, the county superintendent, the governing board, and the public. Within 15 days of the receipt of the information, the county superintendent of schools and the county auditor may comment publicly to the governing board of the school district regarding the capability of the school district to repay that debt obligation.

(b) Upon the approval by the county board of education to proceed with the issuance of certificates of participation or revenue bonds or to enter into any agreement for financing pursuant to Chapter 28 (commencing with Section 17870), the county superintendent of schools or superintendent of a school district for which the county board serves as governing board shall notify the Superintendent of Public Instruction. The county superintendent of schools or the superintendent of a school district for which the county board serves as the governing board shall provide the repayment schedules for that debt obligation and evidence of the ability of the county office of education or school district to repay that obligation,

to the Superintendent of Public Instruction, the governing board, and the public. Within 15 days of the receipt of the information the Superintendent of Public Instruction may comment publicly to the county board of education regarding the capability of the county office of education or school district to repay that debt obligation.

SEC. 92. Section 17182 is added to the Education Code, to read:

17182. (a) Except as otherwise provided in subdivision (b), all expenses incurred by the authority in implementing this chapter shall be payable solely from funds appropriated for purposes of this chapter, and the authority shall not incur liabilities in excess of the amount of those funds.

(b) The authority may request a loan by the Pooled Money Investment Board from the Pooled Money Investment Account, in accordance with Section 16312 of the Government Code, and may execute those documents required by the Pooled Money Investment Board to obtain and repay the loan. The loan shall be deposited in the fund for the purposes of carrying out the provisions of this chapter. The amount of the loan shall not exceed the amount of the unsold bonds that the authority by resolution, has authorized to be sold for the purposes of this chapter.

SEC. 93. Section 17183 is added to the Education Code, to read:

17883. (a) From time to time, the authority may, by resolution, issue its revenue bonds in order to provide funds for any of the purposes of this chapter. Bonds may be issued to finance any of the following:

(1) A single project or financing of working capital for a single participating district.

(2) A series of projects or financings of working capital for a single participating district.

(3) A single project or financing of working capital for several participating districts.

(4) Several projects or financing of working capital for several participating districts.

(5) A joint venture school facilities construction project undertaken pursuant to Article 5 (commencing with Section 17760) of Chapter 22.

(b) Except as otherwise expressly provided by the authority, all revenue bonds shall be payable from any available revenues or moneys of the authority not otherwise pledged, subject only to any agreements with holders of particular bonds or notes pledging any particular revenue or moneys. Notwithstanding that revenue bonds issued pursuant to this section may be payable from a special fund, the revenue bonds shall be, and shall be deemed to be for all purposes, negotiable instruments, subject only to the provisions of the revenue bonds for registration.

(c) The revenue bonds of the authority may be issued as serial bonds, term bonds, or the authority, in its discretion, may issue bonds of both types. The issuance shall be in accordance with the indenture,

trust agreement, or resolution relating to the revenue bonds, which shall provide all of the following:

(1) The date or dates of the bonds.

(2) The date or dates upon which the bonds will mature, not to exceed 40 years from their respective dates.

(3) The interest rate or rates, or methods of determining the interest rate or rates, of the bonds.

(4) When the bonds are payable.

(5) The denominations of the bonds.

(6) The form of the bonds, which shall be either bearer or registered.

(7) The registration privileges of the bonds.

(8) The manner in which the bonds are to be executed.

(9) The place or places at which the bonds shall be payable in lawful money of the United States of America.

(10) The terms of redemption of the bonds.

(d) After giving due consideration to the recommendations of the participating district or districts, the revenue bonds of the authority shall be sold by the Treasurer at either a public or private sale at a price or prices, and upon the terms and conditions prescribed by the authority. The revenue bonds of the authority may be sold at, above, or below the par value of the bonds.

(e) Pending the preparation of the definitive bonds, the authority may issue interim receipts or certificates or temporary bonds which shall be exchanged for the definitive bonds.

(f) Any resolution authorizing the issuance of any bonds of the authority, or any issue of revenue bonds of the authority, may include any of the following provisions:

(1) Provisions pledging all or any part of the proceeds of the bonds or revenue of a project or loan.

(2) Provisions concerning the replacement of mutilated, destroyed, stolen, or lost bonds.

(3) Provisions specifying insurance to be maintained on the project and the authorized uses of the proceeds of the insurance.

(4) Covenants against the mortgaging or otherwise encumbering, selling, leasing, pledging, placing a charge upon, or otherwise disposing of the project prior to the payment of the bonds issued to finance the project.

(5) Provisions specifying the events of default, terms upon which the bonds may be declared due before maturity, and the terms upon which the declaration and its consequences may be waived.

(6) The rights, liabilities, powers, and duties arising upon the breach of any covenants, conditions, or obligations.

(7) Vesting of the right to enforce covenants in a trustee.

(8) The terms upon which all or any percentage of the bondholders may enforce covenants or duties.

(9) Procedures for amending the terms of the resolution, with or without the consent of the holders of a specified number of bonds.

(10) Provision for any other acts or things deemed necessary, convenient, or desirable by the authority to secure the bonds or improve their marketability.

(g) The validity of the authorization and issuance of any bond issue shall not be affected by proceedings for the acquisition, construction, or improvement of any project, or by contracts relating to those proceedings. Any resolution authorizing the issuance of any bonds of the authority may provide authorization for the bonds to bear a statement certifying that they are issued pursuant to this chapter. Bonds bearing such a statement shall be conclusively deemed valid and issued in conformity with this chapter. Reference on the face of the bonds to the resolution by its date of adoption shall incorporate the provisions of the resolution and of this chapter into the terms of the bonds.

(h) Members of the authority, or any person executing the revenue bonds of the authority, shall not incur personal liability on the bonds, nor shall these persons incur personal liability or accountability by reason of the issuance of the revenue bonds of the authority.

(i) The authority is authorized, out of any funds available for that purpose, to purchase revenue bonds of the authority. The authority may hold, pledge, cancel, or resell any bonds purchased under the authority of this subdivision, subject to, and in accordance with, agreements with bondholders.

(j) The financing or refinancing of projects or working capital may be provided pursuant to this chapter by means other than revenue bonds, at the discretion of the authority, including financing or refinancing through certificates of participation, or other interests, in bonds, loans, leases, installment sales, or other agreements of the participating district or districts. In this connection, the authority may do all things and execute and deliver all documents and instruments as may be necessary or desirable with regard to issuance of the certificates of participation or other means of financing or refinancing.

(k) The authority may by resolution issue its revenue bonds in the form of commercial paper.

SEC. 94. Section 17199.3 is added to the Education Code, to read:

17199.3. (a) The total amount of revenue bonds which may be issued and outstanding at any time for purposes of this chapter, other than those revenue bonds under Section 17899.4, shall not exceed four hundred million dollars ($400,000,000).

(b) The total amount of revenue bonds that may be issued under this chapter each fiscal year, for purposes of Section 17899.4 only, shall not exceed four hundred million dollars ($400,000,000). Of that total amount of revenue bonds, not more than one hundred fifty million dollars ($150,000,000) in revenue bonds may be issued for the purposes of joint venture school facilities construction projects undertaken pursuant to Article 5 (commencing with Section 17760)

of Chapter 22. The total amount that may be outstanding at any time under this chapter, for purposes of Section 17899.4 only, shall not exceed four billion dollars ($4,000,000,000).

(c) For purposes of subdivisions (a) and (b), bonds which meet any of the following conditions shall not be deemed to be outstanding:

(1) Bonds which have been refunded pursuant to Section 17888.

(2) Bonds for which money or securities in amounts necessary to pay or redeem the principal, interest, or any redemption premium on the bonds have been deposited in trust.

(3) Bonds which have been issued to provide working capital.

SEC. 95. Section 17199.4 is added to the Education Code, to read:

17199.4. (a) Notwithstanding any other law, any participating school district or county office of education, in connection with securing financing or refinancing of projects, except working capital, pursuant to this chapter may elect to guarantee or provide for payment of the bonds in accordance with the following conditions:

(1) If a participating school district or county office of education adopts a resolution by a majority vote of its board to participate under this section, it shall provide notice to the Controller of that election. The notice shall include a schedule for the repayment of principal and interest on the bonds and identify a trustee appointed by the participating school district or county office of education or the authority for purposes of this section. The notice shall be provided not later than the date of issuance of the bonds.

(2) If, for any reason, the school district or county office of education will not make the payment of principal and interest at the time the payment is required, the participating school district or county office of education shall notify the trustee of that fact and of the amount of the deficiency. The trustee shall immediately communicate that information to the Controller.

(3) Upon receipt of the notice required by paragraph (2), the Controller shall make an apportionment to the trustee in the amount of the deficiency for the purpose of making the required payment of principal or interest, or both. The Controller shall make that apportionment only from moneys in Section A of the State School Fund designated for apportionment to the district pursuant to Section 42238 or to the county office of education pursuant to Section 2558.

(4) As an alternative to the procedures set forth in paragraphs (2) and (3), the participating school district or county office of education may provide a transfer schedule in its notice to the Controller of its election to participate under this section. The transfer schedule shall set forth amounts to be transferred to the trustee and the date for the transfers. The Controller shall, subject to the limitation in the last sentence of paragraph (3), make apportionments to the trustee of those amounts on the specified date for the purpose of making those transfers.

(b) The amount apportioned for a school district or for a county office of education pursuant to this section shall be deemed to be an allocation to the district or the county office of education for purposes of subdivision (b) of Section 8 of Article XVI of the California Constitution. For purposes of computing revenue limits pursuant to Section 42238 for any school district or pursuant to Section 2558 for any county office of education, the revenue limit for any fiscal year in which funds are apportioned for the district or for the county office of education pursuant to this section shall include any amounts apportioned by the Controller pursuant to paragraphs (3) and (4) of subdivision (a).

(c) (1) School districts or county offices of education that elect to participate under this section shall apply to the authority. The authority shall consider each of the following priorities in making funds available:

(A) First priority shall be given to school districts or county offices of education that apply for funding for instructional classroom space.

(B) Second priority shall be given to school districts or county offices of education that apply for funding of modernization of instructional classroom space.

(C) Third priority shall be given to all other eligible costs, as defined in Section 17873.

(2) The authority shall prioritize applications at appropriate intervals.

(3) A school district electing to participate under this section that has applied for revenue bond moneys for the purposes of joint venture school facilities construction projects, pursuant to Article 5 (commencing with Section 17760) of Chapter 22, shall not be subject to the priorities set forth in paragraph (1) of this subdivision.

(d) This section shall not be construed to make the State of California liable for any payment of principal or interest on any bonds or certificates of participation within the meaning of Section 1 of Article XVI of the California Constitution or otherwise, except as expressly provided in this section.

(e) A school district that has a qualified or negative certification pursuant to Section 42131, or a county office of education that has a qualified or negative certification pursuant to Section 1240, may not participate under this section.

(f) The authority shall report to the Legislature by January 1, 2001, on the number of school districts or county offices of education electing to participate under this section and on the financial stability of the participating school districts and county offices of education.

(g) This section shall remain in effect only until January 1, 2006, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2006, deletes or extends that date.

SEC. 96. Section 17215 is added to the Education Code, to read:

17215. (a) In order to promote the safety of pupils, comprehensive community planning, and greater educational

usefulness of schoolsites before acquiring title to property for a new schoolsite, the governing board of each school district, including any district governed by a city board of education, shall give the Department of Transportation written notice of the proposed acquisition and shall submit any information required by the department if the proposed site is within two miles, measured by air line, of that point on an airport runway or a potential runway included in an airport master plan that is nearest to the site.

(b) If the Department of Transportation is no longer in operation, the governing board of the school district shall, in lieu of notifying the Department of Transportation, notify the United States Department of Transportation or any other appropriate agency, in writing, of the proposed acquisition for the purpose of obtaining from the department or other agency any information or assistance that it may desire to give.

(c) The Department of Transportation shall investigate the proposed site and, within 30 working days after receipt of the notice, shall submit to the governing board a written report and its recommendations concerning acquisition of the site. As part of the investigation, the Department of Transportation shall give notice thereof to the owner and operator of the airport who shall be granted the opportunity to comment upon the proposed schoolsite.

(d) The governing board shall not acquire title to the property until the report of the Department of Transportation has been received. If the report does not favor the acquisition of the property for a schoolsite or an addition to a present schoolsite, the governing board shall not acquire title to the property until 30 days after the department's report is received and until the department's report has been read at a public hearing duly called after 10 days' notice published once in a newspaper of general circulation within the school district or, if there is no newspaper of general circulation within the school district, in a newspaper of general circulation within the county in which the property is located.

(e) Except as provided in subdivision (d), if the Department of Transportation in its report submitted to a governing board of a school district does not favor acquisition of a proposed site that is within two miles of the centerline of an active runway, no state funds or local funds shall be apportioned or expended for the acquisition of that site, construction of any school building on that site, or for the expansion of any existing site to include that site.

(f) This section does not apply to sites acquired prior to January 1, 1966, nor to any additions or extensions to those sites.

(g) If the recommendations of the Department of Transportation are unfavorable, the recommendations shall not be overruled without the express approval of the State Allocation Board.

SEC. 97. Section 17224 of the Education Code is repealed.

SEC. 98. Section 17224 is added to the Education Code, to read:

17224. Any funds in the State School Site Utilization Fund, including interest, which are not subject to return to a school district pursuant to Section 39017 shall revert to the Deferred Maintenance Fund.

SEC. 98.5. Section 17224 is added to the Education Code, to read:

17224. Any funds in the State School Site Utilization Fund, including interest, which are not subject to return to a school district pursuant to Section 17223 shall revert to the School Major Maintenance Match Fund.

SEC. 99. Section 17716 of the Education Code, as amended by Chapter 1059 of the Statutes of 1996, is repealed.

SEC. 100. Section 17717.2 of the Education Code, as added by Chapter 1059 of the Statutes of 1996, is repealed.

SEC. 101. Section 17732.5 of the Education Code, as added by Chapter 1059 of the Statutes of 1996, is repealed.

SEC. 102. Section 17742 of the Education Code, as amended by Chapter 1059 of the Statutes of 1996, is repealed.

SEC. 103. Section 17742.9 of the Education Code, as added by Chapter 470 of the Statutes of 1996, is repealed.

SEC. 104. Section 17747.6 of the Education Code, as added by Chapter 1059 of the Statutes of 1996, is repealed.

SEC. 105. Section 17850 of the Education Code, as amended by Chapter 1071 of the Statutes of 1996, is repealed.

SEC. 106. Section 17882 of the Education Code, as amended by Chapter 1071 of the Statutes of 1996, is repealed.

SEC. 107. Section 17883 of the Education Code, as amended by Chapter 1071 of the Statutes of 1996, is repealed.

SEC. 108. Section 17899.3 of the Education Code, as amended by Chapter 1071 of the Statutes of 1996, is repealed.

SEC. 109. Section 17899.4 of the Education Code, as added by Chapter 1071 of the Statutes of 1996, is repealed.

SEC. 110. Section 38060 is added to the Education Code, to read:

38060. (a) Any person who enters a schoolbus or school pupil activity bus without prior authorization of the driver or other school official with intent to commit any crime and who refuses to disembark after being ordered to do so by the driver or other school official is guilty of a misdemeanor and is punishable by imprisonment in the county jail for not more than six months, by a fine of not more than one thousand dollars ($1,000), or by both.

(b) A school district or county superintendent of schools may place a notice at the entrance of a schoolbus or school pupil activity bus that complies with the requirements of paragraph (3) of subdivision (c) of Section 1256.5 of Title 13 of the California Code of Regulations and that warns against unauthorized entry.

SEC. 111. Section 39005 of the Education Code, as amended by Chapter 1158 of the Statutes of 1996, is repealed.

SEC. 112. Section 8.5 of this bill incorporates amendments to Section 15301 of the Education Code proposed by AB 1042. It shall

only become operative if (1) both this bill and AB 1042 are enacted and become effective on or before January 1, 1998, (2) AB 1042 amends Section 15301 of the Education Code, and (3) this bill is enacted after AB 1042, in which case Sections 7 and 8 of this bill shall not become operative.

SEC. 113. Section 98.5 of this bill incorporates amendments to Section 17244 of the Education Code proposed by AB 736. It shall only become operative if (1) both this bill and AB 736 are enacted and become effective on or before January 1, 1998, (2) AB 736 amends Section 17244 of the Education Code, and (3) this bill is enacted after AB 736, in which case Sections 97 and 98 of this bill shall not become operative.

SEC. 114. To the extent that the provisions of this act are substantially the same as existing statutory provisions relating to the same subject matter, the provisions shall be construed as restatements and continuations of existing statutory provisions and not as a new enactment.

SEC. 115. The Legislature finds and declares that the enactment of this act, in view of the nonsubstantive statutory changes made, will not result in new or additional costs to local agencies charged with any duties or responsibilities in connection therewith.

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## CHAPTER 894

An act relating to insurance, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 11, 1997. Filed with Secretary of State October 12, 1997.]

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

SECTION 1. The sum of nine hundred seven thousand five hundred ninety-five dollars ($907,595) is hereby appropriated from the General Fund to the Department of Insurance for the purpose of funding, for the 1997–98 fiscal year, the tax return processing and tax audit duties of the Department of Insurance.

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 funds to be made available to the Department of Insurance for the purpose of processing and auditing the tax returns of insurers during the 1997–98 fiscal year, it is necessary that this act take effect immediately.

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## CHAPTER 895

An act to add and repeal Section 4848.5 of the Business and Professions Code, relating to veterinary medicine, and making an appropriation therefor.

[Approved by Governor October 11, 1997. Filed with Secretary of State October 12, 1997.]

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

SECTION 1. Section 4848.5 is added to the Business and Professions Code, to read:

4848.5. (a) The board may waive the examination requirement of subdivision (a) of Section 4848, and issue a license by endorsement to an applicant to practice veterinary medicine upon the terms of this section, if the applicant meets the requirements prescribed by paragraphs (1) to (4), inclusive, of subdivision (b) of Section 4848 and each of the following requirements:

(1) The applicant holds a current general license to practice veterinary medicine issued in another state or jurisdiction. The applicant's license shall not be under discipline or have disciplinary action pending at the time of the application.

(2) The applicant is a graduate of a veterinary college accredited by the American Veterinary Medical Association or possesses a certificate issued by the Educational Committee for Foreign Veterinary Graduates of the American Veterinary Medical Association.

(3) The applicant is a recognized diplomate of the American College of Poultry Veterinarians. This requirement does not apply to any applicant employed by, or under contract to, an employer or enterprise that is engaged primarily in the poultry industry on a commercial basis prior to January 1, 1998.

(4) The applicant is employed full time by, or under contract to, an employer or enterprise that is engaged primarily in the poultry industry on a commercial basis.

(b) If, after receiving a license pursuant to this section, a licensee's full-time employment in the commercial poultry industry is discontinued by either the licensee or his or her employer, the licensee's employer and the licensee shall notify the board of the change in the licensee's employment status. Termination of employment shall require the licensee to forfeit his or her license issued pursuant to this section. The board shall terminate a license issued pursuant to this section if the licensee practices veterinary medicine outside the employer's interest.

(c) The board shall show cause when it denies an application for licensure under this section.

(d) A license issued pursuant to this section may be renewed pursuant to Section 4846.4, and shall expire upon the repeal of this section. The board shall collect the application and renewal fees provided for by Section 4905.

(e) The board shall report and make recommendations to the Legislature by July 1, 1999, on all licenses granted pursuant to this section. The report shall include, but not be limited to, all revenues and expenditures, and any disciplinary or enforcement actions in connection with the provisions of this section.

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

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

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## CHAPTER 896

An act to amend Section 31006 of, and to add Chapter 4.5 (commencing with Section 31160) to Division 21, of the Public Resources Code, relating to coastal resources.

[Approved by Governor October 12, 1997. Filed with
Secretary of State October 12, 1997.]

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

SECTION 1. Section 31006 of the Public Resources Code is amended to read:

31006. (a) “Coastal zone” means that area of the state as defined in Section 30103. Only for purposes of conservancy action in San Francisco Bay, the “coastal zone” also includes areas that are within the permit jurisdiction of the bay commission, as described in Section 66610 of the Government Code, with the exception of Contra Costa County lands from the Richmond-San Rafael Bridge north and east to the termination of the bay commission boundary, except as provided in subdivision (b), as well as any uplands, wetlands, marshes, diked lands, and other watershed lands that significantly

affect the environmental quality of the bay or are directly related to the public's use and enjoyment of the bay, and other watershed lands within the nine counties adjacent to the bay that have waters that flow directly into the bay or the ocean.

(b) Notwithstanding subdivision (a), with respect to lands within Contra Costa County that are included within the permit jurisdiction of the bay commission, as described in Section 66610 of the Government Code, or that consist of any uplands, wetlands, marshes, diked lands, or other watershed lands that significantly affect the environmental quality of the bay or are directly related to the public's use and enjoyment of the bay, the local public agency having jurisdiction over any such lands may formally request conservancy action by resolution.

SEC. 2. Chapter 4.5 (commencing with Section 31160) is added to Division 21 of the Public Resources Code, to read:

## CHAPTER 4.5. SAN FRANCISCO BAY AREA CONSERVANCY PROGRAM

31160. The San Francisco Bay Area Conservancy Program is established pursuant to this chapter, to be administered by the conservancy, to address the resource and recreational goals of the San Francisco Bay area, as identified in Section 31162, in a coordinated, comprehensive, and effective way.

31161. The Legislature hereby finds and declares that the nine counties that bound San Francisco Bay constitute a region with unique natural resource and outdoor recreational needs. San Francisco Bay is the central feature in an interconnected open-space system of watersheds, natural habitats, scenic areas, agricultural lands, and regional trails.

31162. The conservancy may undertake projects and award grants in the nine county San Francisco Bay area that will help achieve the following goals of the San Francisco Bay Area Conservancy Program:

(a) To improve public access to and around the bay, coast, ridgetops, and urban open spaces, consistent with the rights of private property owners, and without having a significant adverse impact on agricultural operations and environmentally sensitive areas and wildlife, including wetlands and other wildlife habitats through completion and operation of regional bay, coast, and ridge trail systems, and local trails connecting to population centers and public facilities, which are part of a regional trail system and are consistent with locally and regionally adopted master plans and general plans, and through the provision and preservation of related facilities, such as interpretive centers, picnic areas, staging areas, and campgrounds.

(b) To protect, restore, and enhance natural habitats and connecting corridors, watersheds, scenic areas, and other open-space resources of regional importance.

(c) To assist in the implementation of the policies and programs of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000)), the San Francisco Bay Plan, and the adopted plans of local governments and special districts.

(d) To promote, assist, and enhance projects that provide open space and natural areas that are accessible to urban populations for recreational and educational purposes.

31163. (a) The conservancy shall cooperate with cities, counties, and districts, the bay commission, other regional governmental bodies, nonprofit land trusts, nonprofit landowner organizations, and other interested parties in identifying and adopting long-term resource and outdoor recreational goals for the San Francisco Bay area, which shall guide the ongoing activities of the San Francisco Bay Area Conservancy Program. The conservancy shall utilize the list of priority areas and concerns established by the bay commission pursuant to subdivision (b) of Section 31056 as guidance in the selection of those San Francisco area projects that are within the jurisdiction of the bay commission. However, the guidance provided by the bay commission is advisory and the conservancy shall have the responsibility for making program decisions. Any acquisition of real property using funds authorized pursuant to this chapter shall be from willing sellers if the land is actively farmed or ranched. Any acquisition of real property by the conservancy pursuant to this chapter shall be from willing sellers.

(b) The conservancy shall, at least biennially, report to the Legislature on its progress in addressing the goals, priority areas, and concerns referenced in subdivision (a), including, but not limited to, any funds that are received or disbursed for purposes related to addressing those goals, priority areas, and concerns.

(c) The conservancy shall participate in and support interagency actions and public/private partnerships in the San Francisco Bay area for the purpose of implementing subdivision (a), and providing for broad-based local involvement in, and support for, the San Francisco Bay Area Conservancy Program.

(d) The conservancy shall utilize the criteria specified in this subdivision to develop project priorities for the San Francisco Bay Area Conservancy Program that provide for development and acquisition projects, urban and rural projects, and open-space and outdoor recreational projects. The conservancy shall give priority to projects that, to the greatest extent, meet the following criteria:

(1) Are supported by adopted local or regional plans.

(2) Are multijurisdictional or serve a regional constituency.

(3) Can be implemented in a timely way.

(4) Provide opportunities for benefits that could be lost if the project is not quickly implemented.

(5) Include matching funds from other sources of funding or assistance.

31164. (a) The San Francisco Bay Area Conservancy Program Account is hereby created in the State Coastal Conservancy Fund, for the purpose of depositing and disbursing funds for the administration and implementation of the San Francisco Bay Area Conservancy Program.

(b) (1) The money in the San Francisco Bay Area Conservancy Program Account created pursuant to subdivision (a) shall be segregated into two subaccounts, as follows:

(A) The first subaccount shall contain funds that are appropriated by the Legislature for the purposes of this chapter. Any interest that accrues on the funds in this subaccount shall be transferred to, and deposited into, the General Fund. The conservancy shall account for all deposits or reimbursements of funds in this subaccount that are derived from funds that were appropriated by the Legislature for the purposes of this chapter.

(B) The second subaccount shall contain funds that are derived from all other sources, exclusive of federal funds, for the purposes of this chapter, including, but not limited to, private donations, fees and penalties, and local government contributions. Any interest that accrues on the funds in this subaccount shall be retained in the subaccount and shall be available for expenditure by the conservancy for the purposes of this chapter. Not more than 3 percent of the funds that are deposited in this subaccount shall be utilized by the conservancy for general administration and planning purposes. No funds shall be expended from this subaccount for any activity that would legally require a commitment of state funds in the future.

(2) All reimbursements, proceeds of sale, or other money received by the conservancy for the purposes of this chapter that are not expended on projects under the San Francisco Bay Area Conservancy Program shall be redeposited in the appropriate subaccount of the San Francisco Bay Area Conservancy Program Account.

(c) The conservancy shall not be required to undertake any activities pursuant to this chapter until such time that funds from new sources of funding that are not currently available to the conservancy for those purposes are appropriated by the Legislature or otherwise deposited in the San Francisco Bay Area Conservancy Program Account, and until such time that any administrative or general planning funds expended by the conservancy for the purposes of this chapter prior to any such appropriations or deposits being available for expenditure by the conservancy are reimbursed to the State Coastal Conservancy Fund.

## CHAPTER 897

An act to add Section 13396.9 to the Water Code, relating to water, and making an appropriation therefor.

[Approved by Governor October 12, 1997. Filed with Secretary of State October 12, 1997.]

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

SECTION 1. Section 13396.9 is added to the Water Code, to read:

13396.9. (a) The California Coastal Commission and the Los Angeles Regional Water Quality Control Board shall establish and participate in the multiagency Los Angeles Basin Contaminated Sediments Task Force, in cooperation with all interested parties, including, but not limited to, the United States Environmental Protection Agency, the United States Army Corps of Engineers, the Port of Long Beach, and the Port of Los Angeles.

(b) (1) On or before January 1, 2003, the California Coastal Commission shall, based upon the recommendations of the task force, develop a long-term management plan for the dredging and disposal of contaminated sediments in the coastal waters adjacent to the County of Los Angeles . The plan shall include identifiable goals for the purpose of minimizing impacts to water quality, fish, and wildlife through the management of sediments. The plan shall include measures to identify environmentally preferable, practicable disposal alternatives, promote multiuse disposal facilities and beneficial reuse, and support efforts for watershed management to control contaminants at their source.

(2) The California Coastal Commission and the Los Angeles Regional Water Quality Control Board shall seek to enter into an agreement with the United States Environmental Protection Agency and the United States Army Corps of Engineers for those federal agencies to participate in the preparation of the long-term management plan, and, on or before January 1, 1999, shall prepare and submit to the Legislature a report indicating the status of that agreement.

(c) The California Coastal Commission and the Los Angeles Regional Water Quality Control Board, in cooperation with the task force, shall conduct not less than one annual public workshop to review the status of the plan and to promote public participation.

SEC. 2. (a) The sum of one hundred thousand dollars ($100,000) is hereby appropriated from the General Fund to the California Coastal Commission, for the 1997–98 fiscal year, and one hundred thousand dollars ($100,000) each year for the 1998–99, 1999–2000, 2000–01, and 2001–02 fiscal years, inclusive, for participation in the development of a long-term management plan for the dredging and disposal of contaminated sediments in the coastal waters adjacent to

the County of Los Angeles in accordance with Section 13396.9 of the Water Code.

(b) The sum of one hundred thousand dollars ($100,000) is hereby appropriated from the General Fund to the State Water Resources Control Board, for allocation to the Los Angeles Regional Water Quality Control Board, for the 1997–98 fiscal year, and one hundred thousand dollars ($100,000) each year for each of the other fiscal years identified in subdivision (a) for participation in the development of the plan described in that subdivision.

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## CHAPTER 898

An act to amend Section 33492.5 of the Health and Safety Code, and to add Section 2.1 to Chapter 1333 of the Statutes of 1968, relating to redevelopment.

[Approved by Governor October 12, 1997. Filed with Secretary of State October 12, 1997.]

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

SECTION 1. This act shall be known and may be cited as the Treasure Island Conversion Act of 1997.

SEC. 2. Section 33492.5 of the Health and Safety Code is amended to read:

33492.5. (a) In any community in which a military base is located, the Base Closure Commission has voted to close that military base, and the action of the Base Closure Commission has been sustained by the President and Congress of the United States, a project area may be adopted pursuant to the following requirements:

(1) If the project area is located entirely within the boundaries of a city, or city and county, then the redevelopment agency of the city, or city and county, may adopt the redevelopment project area pursuant to this part as modified by this chapter.

(2) If the project area is located entirely within the unincorporated area of a single county, then the county redevelopment agency may adopt the redevelopment project area pursuant to this part as modified by this chapter.

(3) If the project area includes property within the jurisdictions of two or more cities, or two or more counties, or a city and a county, or any combination of the foregoing, then all of the cities and counties the jurisdictions of which include property within the boundaries of the military base and any other territory to be included within the redevelopment project area may enter into a joint powers agreement, an agreement entered into pursuant to Section 33210, or other appropriate agreement for the purpose of creating a

redevelopment agency and adopting a project area pursuant to this part as modified by this chapter.

(b) A redevelopment agency to which this chapter is applicable may adopt a project area either pursuant to this chapter or pursuant to other relevant provisions of this part.

SEC. 3. (a) The Legislature finds and declares all of the following:

(b) It is the intent of the Legislature with the enactment of this act to provide a means for mitigating the serious economic effects of the closure of Naval Station Treasure Island on the City and County of San Francisco, its surrounding communities, and the State of California by vesting a single entity with redevelopment authority over the property and, with respect to that portion of the property subject to the public trust for navigation, commerce, and fisheries, the power to administer the trust.

(1) That property known as Naval Station Treasure Island, which includes Treasure Island and Yerba Buena Island, was selected for closure and disposition by the Base Realignment and Closure Commission in 1993, acting under Public Law 101-510 and its subsequent amendments, and is scheduled for operational closure on October 1, 1997. The conversion of Naval Station Treasure Island to productive civilian reuse presents unique redevelopment issues which would be best addressed by an agency created specifically for that purpose.

(2) All former and existing tide and submerged lands on the Naval Station, including all of Treasure Island and portions of Yerba Buena Island, will be subject to the public trust for navigation, commerce, and fisheries upon their release from federal ownership. In the absence of legislative action, this property would automatically be brought under the jurisdiction of the Port of San Francisco pursuant to, and subject to the terms and requirements of, the Burton Act (Chapter 1333 of the Statutes of 1968).

(3) Certain buildings and other structures constructed on Treasure Island during the period of federal ownership were built for nontrust purposes and are not adaptable for trust related uses. These buildings and structures are in various stages of their useful lives, some having been constructed only a few years prior to the scheduled closure. The conversion of the lands underlying these buildings and structures to trust uses in the future should proceed in a manner that will enable the people of this state to benefit from the substantial investments made in these structures without hindering the overall goal of preserving the public trust.

(4) Treasure Island also contains hangars that were built for maritime aviation purposes. These structures may be utilized for trust uses in the future, but no trust related use has been identified for them in the near term.

(5) The creation of a single public agency that is vested with both redevelopment authority and the power to administer the trust will

facilitate the conversion of Naval Station Treasure Island to productive civilian reuse and is in the best interests of the people of this state.

SEC. 4. For the purposes of this act:

(a) "Property" means that property commonly known as Naval Station Treasure Island, which includes Treasure Island and Yerba Buena Island, and is more particularly described as follows:

All of the land acquired from the City and County of San Francisco as described in the Judgement of the Declaration of Taking for Civil Action 22164-W filed in the District Court of the United States in and for the Northern District of California, Southern Division on April 17, 1942, and being more particularly described as follows:

Beginning at a monument established near the westerly end of Yerba Buena Island by the United States Coast and Geodetic Survey about 75 feet above high tide, known and designated by said survey as Station Goat, located at latitude 37° 48′ 40.387″ North, longitude 122° 22′ 17.657″ West (values as determined by the United States Coast and Geodetic Survey as of the year 1930) and running thence N 28° W a distance of 8,000 feet, thence N 62° E a distance of 4,500 feet, thence S 28° E a distance of 8,000 feet, thence S 62° W a distance of 4,500 feet to the point of beginning; all bearings being referred to the true meridian through said Station Goat, excepting from said grant that portion of the lands above particularly described, lying northerly of Yerba Buena Island and adjacent thereto, extending from high water mark to 900 feet beyond low water mark, the latter portion so excepted being a part of the lands granted and ceded by the State of California to the United States of America by that certain Act of the Legislature of the State of California entitled "An Act relinquishing to the United States of America the title of this State to certain land", approved March 9, 1897.

ALONG WITH

All of the tide and submerged land situated at Naval Station Treasure Island acquired from the State of California by the United States of America by the Act of Legislature of the State of California on March 9, 1897.

EXCEPTING therefrom that portion of those lands granted by this act lying southeasterly of a line shown on the Department of the Navy, Naval Facilities Engineering Command Real Estate Summary Map having NAVFAC DWG NOs. 1296802 and 1296803, and being the boundary between the Naval Station Treasure Island and the Lands Owned by the United States Coast Guard, said line more particularly described as follows:

Commencing at a point that bears S 20° 02′ W 951 feet from a granite monument shown on the above described map as point number 102, thence S 03° 50′ W 910 feet more or less to a point 300 yards beyond the low-water mark and being the waterward limits of the tide and submerged land acquired by the United States of America at Naval Station Treasure Island by the Act of the

Legislature of the State of California on March 9, 1897, said point being the TRUE POINT OF BEGINNING of the herein described line; thence along said line the following courses: N 03° 50′ E 910 feet more or less to a point that bears S 20° 02′ W 951 feet from a monument shown on the above map as Granite point number 102; thence N 39° 54′ E 562.54 feet; thence S 80° 35′ 16″ E 450.04 feet; thence N 82° 04′ 07″ E 81.46 feet to a curve to the left having a radius of 276.66 feet, through a central angle of 61° 05′ 20″, along an arc a distance of 294.98 feet; thence N 6° 49′ 07″ W 101.83 feet; thence N 02° 14′ 18″ E 21 feet; thence N 0° 37′ 33″ E 24.72 feet; thence N 02° 42′ 24″ W 113.30 feet; thence N 89° 02′ E 179.26 feet; thence along a curve to the left whose radius bears S 71° 57′ W 150 feet, through a central angle of 26° 24′, along an arc a distance of 234.99 feet; thence along a curve to the left whose radius bears S 45° 33′ W 43 feet, through a central angle of 67° 33′, along an arc a distance of 50.70 feet; thence along a curve to the left having a radius of 91 feet, through a central angle of 83° 09′, and having a chord that bears N 26° 25′ 30″ E 120.78 feet; thence N 43° 15′ 40″ E 125.84 feet; thence along a curve to the right having a radius which bears N 51° 39′ E 200 feet, through a central angle of 69° 45′, along an arc a distance of 243.47 feet; thence N 51° 29′ E 130 feet; thence S 80° 27′ 26″ E 156.06 feet; thence N 53° 13′ 15″ E 274.53 feet; thence S 02° 49′ 34″ W 574.47 feet; thence S 15° 38′ 44″ E 241.28 feet; thence S 84° 12′ W 25 feet; thence S 05° 48″ E 40.4 feet; thence N 85° 00′ E 900 feet more or less to a point three hundred yards beyond the low water mark of San Francisco Bay being the waterward limit of the tide and submerged land acquired by the United States of America at Naval Station Treasure Island by the Act of Legislature of the State of California on March 9, 1897.

ALONG WITH

Those lands described in the Executive Order dated November 6, 1850, for Yerba Buena Island (Goat Island) situated upland from the Ordinary High Water Mark of San Francisco Bay;

EXCEPTING THEREFROM that portion of Yerba Buena Island lying southeasterly of a line shown on the Department of the Navy, Naval Facilities Engineering Command Real Estate Summary Map having NAVFAC DWG NO. 1296803 and being the boundary between the Naval Station Treasure Island and the Lands Owned by the United States Coast Guard and more particularly described as follows: Commencing at a point that bears S 89° 02′ W 403.34 feet and S 39° 53′ 48″ W 340 feet from a granite monument shown on the above map as Granite point number 102, thence S 39° 54′ W 562.5 feet more or less to the intersection with the ORDINARY HIGH WATER MARK of San Francisco Bay, said point being the TRUE POINT OF BEGINNING of the herein described line; thence along said line the following courses: N 39° 54′ E 562.54 feet more or less to a point that bears N 89° 02′ E 403.34 feet and S 39° 53′ 48″ W 340 feet from a monument shown on the above map as Granite point number 102; thence S 80° 35′ 16″ E 450.04 feet; thence N 82° 04′ 07″ E 81.46 feet to

a curve to the left having a radius of 276.66 feet, through a central angle of 61° 05′ 20″, along an arc a distance of 294.98 feet; thence N 6° 49′ 07″ E 101.83 feet; thence N 02° 14′ 18″ E 21 feet; thence N 0° 37′ 33″ E 24.72 feet; thence N 02° 42′ 24″ W 113.30 feet; thence N 89° 02′ E 179.26 feet; thence along a curve to the left whose radius bears S 71° 57′ W 150 feet, through a central angle of 26° 24′, along an arc a distance of 234.99 feet; thence along a compound curve whose radius bears S 45° 33′ W 43′, through a central angle of 67° 33′, along an arc a distance of 50.70 feet; thence along a curve to the left having a radius of 91 feet, through a central angle of 83° 09′, and having a chord that bears N 26° 25′ 30″ E 120.78 feet; thence N 43° 15′ 40″ E 125.84 feet; thence along a curve to the right having a radius which bears N 51° 39′ E 200 feet, through a central angle of 69° 45′, along an arc a distance of 243.47 feet; thence N 51° 29′ E 130 feet; thence S 80° 27′ 26″ E 156.06 feet; thence N 53° 13′ 15″ E 274.53 feet more or less to the approximate mean high water line 1965 as shown on the above referenced map and the end of the herein described line.

(b) "Trust Property" means that portion of the property consisting of those existing and former tidelands and submerged lands commonly known as Treasure Island, together with all existing and former tide and submerged lands on Yerba Buena Island, all of which are subject to the public trust for navigation, commerce, and fisheries. The Trust Property is more particularly described as follows:

All of the land acquired from the City and County of San Francisco as described in the Judgement of the Declaration of Taking for Civil Action 22164-W filed in the District Court of the United States in and for the Northern District of California, Southern Division on April 17, 1942, and being more particularly described as follows:

BEGINNING at a monument established near the westerly end of Yerba Buena Island by the United States Coast and Geodetic Survey about 75 feet above high tide, known and designated by said survey as Station Goat, located at latitude 37° 48′ 40.387″ North, longitude 122° 22′ 17.657″ West (values as determined by the United States Coast and Geodetic Survey as of the year 1930) and running thence N 28° W a distance of 8,000 feet, thence N 62° E a distance of 4,500 feet, thence S 28° E a distance of 8,000 feet, thence S 62° W a distance of 4,500 feet to the point of beginning; all bearings being referred to the true meridian through said Station Goat, excepting from said grant that portion of the lands above particularly described, lying northerly of Yerba Buena Island and adjacent thereto, extending from high water mark to 900 feet beyond low water mark, the latter portion so excepted being a part of the lands granted and ceded by the State of California to the United States of America by that certain Act of the Legislature of the State of California entitled "An Act relinquishing to the United States of America the title of this State to certain land", approved March 9, 1897.

ALONG WITH

All of the tide and submerged land situated at Naval Station Treasure Island acquired from the State of California by the United States of America by the Act of Legislature of the State of California on March 9, 1897.

EXCEPTING therefrom that portion of those lands granted by this act lying southeasterly of a line shown on the Department of the Navy, Naval Facilities Engineering Command Real Estate Summary Map having NAVFAC DWG NOs. 1296802 and 1296803, and being the boundary between the Naval Station Treasure Island and the Lands Owned by the United States Coast Guard, said line more particularly described as follows:

Commencing at a point that bears S 20° 02′ W 951 feet from a granite monument shown on the above described map as Granite point number 102, thence S 03° 50′ W 910 feet more or less to a point 300 yards beyond the low-water mark and being the waterward limits of the tide and submerged land acquired by the United States of America at Naval Station Treasure Island by the Act of the Legislature of the State of California on March 9, 1897, said point being the TRUE POINT OF BEGINNING of the herein described line; thence along said line the following courses: N 03° 50′ E 910 feet more or less to a point that bears S 20° 02′ W 951 feet from a monument shown on the above map as Granite point number 102; thence N 39° 54′ E 562.54 feet; thence S 80° 35′ 16″ E 450.04 feet; thence N 82° 04′ 07″ E 81.46 feet to a curve to the left having a radius of 276.66 feet, through a central angle of 61° 05′ 20″, along an arc a distance of 294.98 feet; thence N 6° 49′ 07″ W 101.83 feet; thence N 02° 14′ 18″ E 21 feet; thence N 0° 37′ 33″ E 24.72 feet; thence N 02° 42′ 24″ W 113.30 feet; thence N 89° 02′ E 179.26 feet; thence along a curve to the left whose radius bears S 71° 57′ W 150 feet, through a central angle of 26° 24′, along an arc a distance of 234.99 feet; thence along a curve to the left whose radius bears S 45° 33′ W 43 feet, through a central angle of 67° 33′, along an arc a distance of 50.70 feet; thence along a curve to the left having a radius of 91 feet, through a central angle of 83° 09′, and having a chord that bears N 26° 25′ 30″ E 120.78 feet; thence N 43° 15′ 40″ E 125.84 feet; thence along a curve to the right having a radius which bears N 51° 39′ E 200 feet, through a central angle of 69° 45′, along an arc a distance of 243.47 feet; thence N 51° 29′ E 130 feet; thence S 80° 27′ 26″ E 156.06 feet; thence N 53° 13′ 15″ E 274.53 feet; thence S 02° 49′ 34″ W 574.47 feet; thence S 15° 38′ 44″ E 241.28 feet; thence S 84° 12′ W 25 feet; thence S 05° 48″ E 40.4 feet; thence N 85° 00′ E 900 feet more or less to a point three hundred yards beyond the low water mark of San Francisco Bay being the waterward limit of the tide and submerged land acquired by the United States of America at Naval Station Treasure Island by the Act of Legislature of the State of California on March 9, 1897.

EXCEPTING THEREFROM those lands described in the Executive Order dated November 6, 1850, for Yerba Buena Island

(Goat Island) situated upland from the Ordinary High Water Mark of San Francisco Bay.

(c) "Authority" means the Treasure Island Development Authority, a nonprofit public benefit corporation established by the legislative body of the City and County of San Francisco.

(d) The provisions of this act shall not apply to any portion of or interest in the Property, including any portion of or interest in the Trust Property, whether real or personal, that is owned by or under the jurisdiction or control of the California Department of Transportation.

SEC. 5. (a) Notwithstanding Article 2 (commencing with Section 33110) of Chapter 2 of Part 1 of Division 24 of the Health and Safety Code, the legislative body of the City and County of San Francisco may, by resolution, designate the Authority or any successor entity or agency of the Authority as the redevelopment agency with all of the rights, powers, privileges, immunities, authorities, and duties granted to a redevelopment agency pursuant to Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code, for the purpose of acquiring, using, operating, maintaining, converting, and redeveloping the property. Upon adoption of that resolution, the Authority shall be considered a redevelopment agency for all purposes under state law, including, but not limited to, the purposes of Section 21090 of the Public Resources Code.

(b) Notwithstanding any state or local law, including, without limitation, Section 33111 of the Health and Safety Code, the Board of Directors of the Authority may include individuals who are officers or employees of the City and County of San Francisco or of the San Francisco Redevelopment Agency and those individuals are not precluded, solely by virtue of their status as officers or employees of the City and County of San Francisco or the San Francisco Redevelopment Agency, from participating in decisions as members of the Board of Directors.

(c) Notwithstanding Section 1090 of the Government Code and Section C8.105 of Appendix C of the San Francisco Charter, officers and employees of the City and County of San Francisco or the San Francisco Redevelopment Agency are not precluded, solely by virtue of their services as members of the Board of Directors, from participating in any decisions in their capacities as officers or employees of the City and County of San Francisco or the San Francisco Redevelopment Agency.

(d) Notwithstanding any other provision of law, the Authority's employees are subject to the same civil service provisions as the employees of the City and County of San Francisco.

(e) Notwithstanding any other provision of law, the Authority shall follow the same competitive bidding procedures applicable to redevelopment agencies in California.

(f) Prior to the Board of Supervisor's approval of a redevelopment plan for the property, any contract to which the Authority is a party worth more than one million dollars ($1,000,000) or with a term of 10 or more years shall require the approval of the Board of Supervisors of the City and County of San Francisco.

SEC. 6. (a) Chapter 1333 of the Statutes of 1968 shall not apply to the property commonly known as Treasure Island, nor to those portions of the property commonly known as Yerba Buena Island consisting of former or existing tide and submerged lands. These properties are more particularly described as follows:

All of the land acquired from the City and County of San Francisco as described in the Judgement of the Declaration of Taking for Civil Action 22164-W filed in the District Court of the United States in and for the Northern District of California, Southern Division on April 17, 1942, and being more particularly described as follows:

BEGINNING at a monument established near the westerly end of Yerba Buena Island by the United States Coast and Geodetic Survey about 75 feet above high tide, known and designated by said survey as Station Goat, located at latitude 37° 48′ 40.387″ North, longitude 122° 22′ 17.657″ West (values as determined by the United States Coast and Geodetic Survey as of the year 1930) and running thence N 28° W a distance of 8,000 feet, thence N 62° E a distance of 4,500 feet, thence S 28° E a distance of 8,000 feet, thence S 62° W a distance of 4,500 feet to the point of beginning; all bearings being referred to the true meridian through said Station Goat, excepting from said grant that portion of the lands above particularly described, lying northerly of Yerba Buena Island and adjacent thereto, extending from high water mark to 900 feet beyond low water mark, the latter portion so excepted being a part of the lands granted and ceded by the State of California to the United States of America by that certain Act of the Legislature of the State of California entitled "An Act relinquishing to the United States of America the title of this State to certain land", approved March 9, 1897.

ALONG WITH

All of the tide and submerged land at Treasure Island Naval Station acquired from the State of California by the United States of America by the Act of Legislature of the State of California on March 9, 1897.

EXCEPTING therefrom that portion of those lands granted by this act lying southeasterly of a line shown on the Department of the Navy, Naval Facilities Engineering Command Real Estate Summary Map Having NAVFAC DWG NOs. 1296802 and 1296803, and being the boundary between the Treasure Island Naval Station and the Lands Owned by the United States Coast Guard, said line more particularly described as follows:

Commencing at a point that bears S 20° 02′ W 951 feet from a granite monument shown on the above described map as point number 102, thence S 03° 50′ W 910 feet more or less to a point 300 yards beyond the low-water mark and being the waterward limits of

the tide and submerged land acquired by the United States of America by the Act of the Legislature of the State of California on March 9, 1897, said point being the TRUE POINT OF BEGINNING of the herein described line; thence along said line the following courses: N 03° 50′ E 910 feet; thence N 39° 54′ E 562.54 feet; thence S 80° 35′ 16″ E 450.04 feet; thence N 82° 04′ 07″ E 81.46 feet to a curve to the left having a radius of 276.66″, through a central angle of 61° 05′ 20″, along an arc a distance of 294.98 feet; thence N 6° 49′ 07″ W 101.83 feet; thence N 02° 14′ 18″ E 21 feet; thence N 0° 37′ 33″ E 24.72 feet; thence N 02° 42′ 24″ W 113.30 feet; thence N 89° 02′ E 179.26 feet; thence along a curve to the left whose radius bears S 71° 57′ W 150 feet, through a central angle of 26° 24′, along an arc a distance of 234.99 feet; thence along a curve whose radius bears S 45° 33′ W 43 feet, through a central angle of 67° 33′, along an arc a distance of 50.70 feet; thence along a curve to the left having a radius of 91 feet, through a central angle of 83° 09′, and having a chord that bears N 26° 25′ 30″ E 120.78 feet; thence N 43° 15′ 40″ E 125.84 feet; thence along a curve to the right having a radius which bears N 51° 39′ E 200 feet, through a central angle of 69° 45′, along an arc a distance of 243.47 feet; thence N 51° 29′ E 130 feet; thence S 80° 27′ 26″ E 156.06 feet; thence N 53° 13′ 15″ E 274.53 feet; thence S 02° 49′ 34″ W 574.47 feet; thence S 15° 38′ 44″ E 241.28 feet; thence S 84° 12′ W 25 feet; thence S 05° 48″ E 40.4 feet; thence N 85° 00′ E 900 feet more or less to a point three hundred yards beyond the low water mark of San Francisco Bay being the waterward limit of the tide and submerged land acquired by the United States of America by the Act of Legislature of the State of California on March 9, 1897.

EXCEPTING THEREFROM those lands described in the Executive Order dated November 6, 1850, for Yerba Buena Island (Goat Island) situated upland from the Ordinary High Water Mark of San Francisco Bay.

(b) All of the State of California's right, title, and interest, acquired by virtue of its sovereignty, in and to the Trust Property, together with all improvements, facilities, rights, privileges, and appurtenances connected therewith or in any way appertaining thereto, is hereby granted in trust to and vested in the Authority, subject to the terms and conditions specified in this act. The lands shall be held by the Authority and its successors in trust for the benefit of all the people of the state for purposes of commerce, navigation, and fisheries, and for other public trust purposes, as more particularly provided in this act.

(c) There is reserved in the people of the State of California the right to hunt and fish in and over the waters on the Trust Property, together with the right of convenient access to the waters over the Trust Property for those purposes.

(d) There is excepted from the grant made in subdivision (b) and reserved to the State of California all subsurface mineral deposits, including oil and gas deposits, together with the right of ingress and

egress on the Trust Property for exploration, drilling, and extraction of such mineral, oil, and gas deposits. Those mineral rights, including the right of ingress and egress, shall not be exercised in a manner that would disturb or otherwise interfere with any lease, franchise, permit, or license of or on the Trust Property; provided, however, that any lease, franchise, permit, or license of property contain a provision specifying at least one point from which and the manner in which the right of ingress or egress to said subsurface deposits may be exercised, which point or points may be outside the area of the leasehold, franchise, permit, or license, provided the point or points are adequate to permit the rights reserved to the state to be exercised.

(e) There is also excepted from the grant made in subdivision (b) any property or interest in property, whether real or personal, owned by or under the jurisdiction or control of the Department of Transportation. The Trust Property shall remain subject to any requirements of the Department of Transportation for future rights-of-way, easements, or material for the construction, location, realignment, expansion, or maintenance of bridges, highways, or other transportation facilities without compensation, except as follows:

(1) Compensation shall be made to the Authority for any property taken that was originally acquired by the Authority for valuable consideration.

(2) In the event improvements, betterments, or structures have been placed upon the Trust Property by the Authority, compensation shall be made to the Authority for the value of the improvements, betterments, or structures taken.

(3) Holders of a lease, franchise, permit, or license to use or occupy a portion of the Trust Property which has been taken pursuant to this section shall be given the same compensation that they would receive under an eminent domain proceeding.

(f) In the management, conduct, operation, and control of the Trust Property or any improvements, betterments, or structures thereon, the Authority or its successors shall make no discrimination in rates, tolls, or charges for any use or service in connection therewith.

(g) The State of California shall have the right to use without charge any transportation, land, or storage improvements, wharves, slips, betterments, or structures, constructed upon the Trust Property, for any vessel or other watercraft, aircraft, or railroad owned or operated by the State of California.

SEC. 7. The Authority shall have complete power to use, conduct, operate, maintain, manage, administer, regulate, improve, lease, and control the Trust Property and to do all things necessary in connection therewith which are in conformance with the terms of this act and the public trust for commerce, navigation and fisheries

upon which the lands are held, including, without limitation, all of the following:

(a) Acquiring, exchanging, and conveying real and personal property of every kind necessary for the full or convenient exercise of its powers, consistent with the public trust and subject to the limitations of this act.

(b) Constructing, erecting, maintaining, repairing, operating, developing, and regulating all improvements, utilities, facilities, equipment, piers, parking areas, streets, highways, bridges, pedestrian ways, landscaped areas, public buildings, public assembly and meeting places, convention centers, parks, museums, playgrounds, and public recreation facilities, including, without limitation, public golf courses, marinas, restaurants, hotels, commercial recreation facilities, entertainment facilities and attractions, and any other works, buildings, facilities, utilities, structures, and appliances incidental to or necessary or convenient for the promotion and accommodation of the purposes of the public trust and this act, or or about the Trust Property.

(c) Promoting the public use of the Trust Property and encouraging private investment in the development of the Trust Property for the foregoing uses in the public interest, through advertising or such other means as may be reasonable and appropriate.

(d) Providing services reasonably necessary to the carrying out of the foregoing uses and purposes. As to any service which the Authority is authorized to perform pursuant to the provisions of this act, the Authority may contract for the performance of such services by the City and County of San Francisco or any agencies thereof, including the Port Commission.

SEC. 8. (a) The Authority shall not at any time grant, convey, give, or alienate the Trust Property, or any part thereof, to any individual, firm, or corporation, except that the Authority may grant franchises, permits, privileges, licenses, easements, or leasehold interests (collectively referred to as "leases" hereinafter) thereon for limited periods, not to exceed 66 years.

(b) Any leases for use of the Trust Property shall be solely for uses that are consistent with or ancillary to the purposes of the public trust for commerce, navigation and fisheries, provided that leases may be granted for other uses where the Authority makes the following determinations:

(1) There is no immediate trust related need for the property proposed to be leased.

(2) The proposed lease is of a duration of no more than five years and can be terminated in favor of trust uses as they arise; except that the existing hangars, or portions thereof, may be leased for up to five years without a right of termination in favor of trust uses.

(3) The proposed lease prohibits the construction of new structures or improvements on the subject property that could, as a

practical matter, prevent or inhibit the property from being converted to any permissible trust use should the property become necessary therefore.

(4) The proposed use of the leased property would not interfere with commerce, navigation, fisheries, or any other existing trust uses or purposes.

SEC. 9. (a) Notwithstanding any other provision of this act, existing buildings or structures on the Trust Property which are incapable of being devoted to trust purposes may be used for other purposes, consistent with the reuse plan for the Trust Property, for the remaining useful life of such buildings or structures. Buildings and structures on the Trust Property that are incapable of being devoted to trust purposes are those constructed for nontrust purposes while the Trust Property was under federal ownership, including, but not limited to, the existing housing units, the brig, the building proposed for use as a police academy, and the school.

(b) The Authority and the State Lands Commission shall, by agreement, establish the remaining useful life of the buildings and structures described in subdivision (a), either individually or by category, provided that in no case shall the useful life of any building or structure be deemed to extend less than 25 years or more than 40 years from the effective date of this act.

(c) The maintenance and repair of any of the existing buildings or structures described in subdivision (a), and any structural or other alterations necessary to bring such buildings or structures into compliance with applicable federal, state, and local health and safety standards, including, but not limited to, seismic upgrading, shall be permitted, provided such activities will not enlarge the footprint or the size of the shell of such buildings or structures.

SEC. 10. (a) All money received or collected by the Authority from or arising out of the use or operation of the Trust Property, including all revenues derived from leases, permits, franchises, privileges, licenses, easements, and rights to use or occupy the Trust Property, shall be deposited by the Authority into a special fund to be maintained by the Authority (the Treasure Island Trust Fund). The money in or belonging to the Treasure Island Trust Fund may be used only for uses and purposes consistent with the public trust for navigation, commerce, and fisheries.

(b) An annual statement of financial conditions and operations shall be prepared by the Authority and submitted to the State Lands Commission each year on or before October 1. The statement shall include a statement of all revenues and expenditures related to trust lands and trust assets, including obligations incurred but not yet paid.

SEC. 11. (a) The Authority may exchange certain portions of the Trust Property with any state agency, political subdivision, person, entity, or corporation, or the United States or any agency thereof, for other lands, whenever the Authority determines and the State Lands

Commission adopts a resolution declaring and finding all of the following:

(1) The portions of the Trust Property to be exchanged have been filled and reclaimed, are cut off from access to the waters of San Francisco Bay, are no longer needed or required for the promotion of the public trust for commerce, navigation, and fisheries, and constitute a relatively small portion of the lands originally granted to the City and County of San Francisco under the Burton Act (Chapter 1333 of the Statutes of 1968).

(2) The lands to be acquired by the Authority have a value equal to or greater than the value of the lands for which they are to be exchanged and are useful for the particular trust purposes authorized by this act.

(3) No substantial interference with trust uses and purposes will ensue by virtue of the exchange.

(b) Upon adoption of the resolution by the State Lands Commission, the lands granted by the Authority shall thereupon be free from the public trust for commerce, navigation, and fisheries, and the lands received in exchange shall be held subject to the public trust and to the terms of this act.

(c) Exchanges made pursuant to this section are hereby found to be of statewide significance and importance, and, therefore, any ordinance, charter provision, or other provision of local law inconsistent with this section shall not be applicable to the exchange.

SEC. 12. If the Authority is dissolved, by operation of law or otherwise, the Trust Property, together with any and all improvements thereon, and the management, conduct, and operation of and jurisdiction over the Trust Property, shall revert and be conveyed to and vest in the City and County of San Francisco, acting by and through its Port Commission, subject to the public trust for commerce, navigation, and fisheries, and the requirements of the Burton Act (Chapter 1333 of the Statutes of 1968), and the remainder of the property shall be conveyed to the City and County of San Francisco.

SEC. 13. (a) The state reserves the right to amend, modify, or revoke any and all rights to the Trust Property granted to the Authority under this act.

(b) For purposes of this section, the term “bonds” includes, without limitation, lease revenue bonds and other bonds, lease financing arrangements, and certificates of participation.

(c) No amendment, modification, or revocation, in whole or in part, of the transfer of the Trust Property in trust provided for in this act shall impair or affect the rights or obligations of third parties, including the holders of bonds or securities, lessees, lenders for value, holders of contracts, conferring the right to the use or occupation of, or the right to conduct operations upon or within, the Trust Property, arising from leases, contracts, or other instruments lawfully entered

into prior to the effective date of such amendment, modification, or revocation.

(d) In the event, at the effective date of any such amendment, modification, or revocation, there are in effect any such leases, contracts, or other instruments, the state may, at its option exercised by and through the State Lands Commission, succeed to the interest in any such instrument of the Authority; otherwise the interest of the Authority in any instrument then in effect shall continue during the term or other period of time during which the instrument shall remain in effect, and provided further that in any event all bonds or securities issued by the Authority and payable out of revenues of the Trust Property shall continue to be so payable, directly or indirectly, and secured in all respects as provided in the proceedings for their issuance, and the revenues of the property shall be pledged and applied to the payment of such bonds or securities in all respects as though no amendment, modification, or revocation had taken place.

SEC. 14. Section 2.1 is added to Chapter 1333 of the Statutes of 1968, to read:

2.1. This act shall not apply to the property commonly known as Treasure Island, nor to those portions of the property commonly known as Yerba Buena Island consisting of former or existing tide and submerged lands and more particularly described in Section 6 of Assembly Bill No. 699 of the 1997–98 Regular Session.

SEC. 15. The Legislature finds and declares that, because of the unique circumstances applicable only to the lands within the City and County of San Francisco described in this act, relating to the closure of Naval Base Treasure Island, a statute of general applicability cannot be enacted within the meaning of subdivision (b) of Section 16 of Article IV of the California Contitution. Therefore, this special statute is necessary.

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## CHAPTER 899

An act to add Section 13181 to the Water Code, relating to water.

[Approved by Governor October 12, 1997. Filed with Secretary of State October 12, 1997.]

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

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

(1) In 1992, California's coastal waters supported seven ocean-dependent industries, including commercial fishing, tourism, and shipping-related commerce that contributed $17,300,000,000 to the California economy and employed 370,000 persons in the state.

(2) The health of the state's coastal waters is threatened by various anthropogenic discharges to coastal waters.

(3) It is in the interest of the health and economic well-being of the people of the state to minimize the contamination of the state's coastal waters. Sound water quality management decisions require a solid base of information collected from a variety of sources. Most existing monitoring programs are designed to measure the impacts of point source pollutant loads.

(4) With certain limited exceptions, the majority of California's waterways and small estuarine systems are not monitored by the state on a regular basis. Monitoring programs are conducted by other entities, but no overall inventory of these efforts is currently available for the entire California coast. Improved monitoring, or in some cases improved coordination of existing programs, will be necessary for the State of California to achieve a systematic understanding of nonpoint source pollution and to measure the effect of efforts to reduce this water pollution source.

(5) Monitoring requirements for measuring the discharge of storm water into the marine environment are poorly developed, limiting the ability of the state to evaluate the extent to which storm water is a source of contaminants in the marine environment or to assess the cumulative effectiveness of the many mitigation activities that are being required by the California regional water quality control boards.

(6) Results from regional monitoring programs, such as the Southern California Bight Project and the San Francisco Estuary Regional Monitoring Program, have been promising and those monitoring programs should serve as models for the monitoring of coastal waters by the state.

(b) (1) It is the intent of the Legislature that the Coastal Waters Ambient Water Quality Monitoring Program be established for the purposes of undertaking an inventory of existing water quality monitoring efforts, and that the information resulting from that undertaking be used to develop and implement a comprehensive water quality monitoring program for coastal watersheds, streams, bays, estuaries, and coastal waters.

(2) It is the intent of the Legislature that a cost-effective system be developed for monitoring the discharge of contaminants into the state's coastal waters and that a wet weather flow toxic chemicals investigation be undertaken in significant urban and rural estuaries to provide a basis for estimating mass discharges.

SEC. 2. Section 13181 is added to the Water Code, to read:

13181. (a) For the purposes of this section, the following terms have the following meanings:

(1) "Coastal waters" means waters within the area bounded by the mean high tide line to the three-mile state waters limit, from the Oregon to the Mexican borders.

(2) “Coastal watersheds” means the watersheds of tributary waters that drain to the ocean and significantly influence coastal water quality.

(b) (1) To the extent that funds are available for that purpose, the state board shall prepare and complete on or before January 1, 2000, an inventory of existing water quality monitoring activities within state coastal watersheds, bays, estuaries, and coastal waters. The information generated by preparing the inventory shall be made available as a report, and as an Internet-based index, that is available to the general public. A summary of the results shall be made available to the Legislature. The inventory shall include, but not be limited to, descriptions of all of the following:

(A) The sources of monitoring data, including federal, state, and local governments, the private sector, citizen groups, and nonprofit organizations.

(B) The monitoring methods being used by these sources.

(C) The location of the monitoring sites.

(D) Existing efforts to investigate the discharge of nonvolatile organic pollutants, including trace metals and nontarget organic chemicals, through storm drains into Santa Monica Bay, San Francisco Bay, Humboldt Bay, and San Diego Bay.

(2) Notwithstanding any other provision of law, the state board shall carry out paragraph (1) by contracting with institutions with expertise in coastal water quality monitoring, which may include the Southern California Coastal Water Research Project and the San Francisco Estuary Institute, to undertake the inventory.

(c) (1) To the extent that funds are available for that purpose, the state board, not later than January 1, 2001, shall prepare and submit to the Legislature a report that proposes the implementation of a comprehensive program to monitor the quality of state coastal watersheds, bays, estuaries, and coastal waters and their marine resources for pollutants, including, but not limited to, bacteria and viruses, petroleum hydrocarbons, heavy metals, and pesticides, as defined in Section 12753 of the Food and Agricultural Code. The proposed program shall utilize information available through the sources identified in paragraph (1) of subdivision (b), as appropriate, and shall avoid the duplication of existing and ongoing monitoring efforts to the extent feasible. The proposed program shall include, but not be limited to, all of the following:

(A) To the extent possible, a determination regarding the extent to which existing water quality objectives, sediment quality guidelines, tissue contaminant burden guidelines, and health standards are being met. Where information is not available to make this determination, the report shall identify methods for determining this information.

(B) To the extent possible, a determination regarding the sources of pollution in areas where objectives, standards, and guidelines are not being met. Where information is not available to make this

determination, the report shall identify methods for determining this information.

(C) Methods for determining the degree of improvement or degradation in coastal water quality over time with respect to these objectives, guidelines, and standards.

(D) To the extent possible, estimates of the total discharges of pollutants into state coastal watersheds, bays, estuaries, and coastal waters from all sources.

(E) Standard protocols for sampling and data collection methods, to maximize the usefulness of the data resulting from the program.

(F) Recommendations for a standard format for reporting monitoring results to maximize access to and use of the data.

(G) The estimated costs of implementing the program and the proposed schedule of implementation.

(H) A description of the method by which the state board shall provide biennial reporting to the public on water quality within the state's coastal watersheds, bays, estuaries, and coastal waters, and recommended actions that should be undertaken to maintain and improve water quality in those areas.

(I) A description of the method by which the state board shall develop a system for monitoring mass contaminant discharges, including, but not limited to, heavy metals, PCBs, PAHs, and pesticides from storm water at the point of discharge. The system shall provide for the appropriate frequency of monitoring for each specific contaminant. The system shall be designed to identify the relative contribution of contaminants in storm water to the overall anthropogenic discharges into near coastal waters. To the extent possible, the system shall be designed to determine the effectiveness of best management practices in reducing the discharges of contaminants to near coastal waters.

(2) The state board shall consult with the San Francisco Estuary Institute and the Southern California Coastal Water Research Project to prepare the report. Notwithstanding any other provision of law, the state board may carry out paragraph (1) by contracting with institutions with expertise in coastal water quality monitoring, including, but not limited to, the Southern California Coastal Water Research Project and the San Francisco Estuary Institute, to prepare the report. The state board or its contractors shall convene workshops, symposia, and other professional and scientific meetings for the purpose of developing a consensus on the part of regulatory agencies and dischargers with regard to the appropriate methods to be used to monitor water quality on a statewide basis.

(d) The state board shall not use more than 5 percent of the funds allocated to implement subdivisions (b) and (c) for the administrative costs of the contracts permitted under those provisions.

# CHAPTER 900

An act to amend Sections 130051, 130051.5, 130051.9, 130051.17, and 130051.18 of, to add Section 130051.28 to, and to add Chapter 6 (commencing with Section 130600) to Division 12 of, the Public Utilities Code, relating to transportation.

[Approved by Governor October 12, 1997. Filed with Secretary of State October 12, 1997.]

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

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

(a) In order to protect the integrity of the board of the Los Angeles County Metropolitan Transportation Authority (hereafter MTA) and sustain the confidence of the people of Los Angeles County, it is necessary to do all of the following:

(1) Articulate specific standards and guidelines to assure that those entrusted with public authority avoid conduct that undermines respect for the MTA.

(2) Provide a comprehensive statement of pertinent laws and regulations, ethical principles, considerations, and obligations governing the conduct of board members and their staff and provide a comprehensive and unified statement of ethical principles, considerations, and obligations to sustain the public trust in the MTA.

(3) Enhance the understanding of the laws and ethical principles that create the obligations of MTA board members and their staff.

(4) Establish positive, effective, and comprehensive guidance for the conduct of MTA board members and their staff.

(b) MTA board members enter into a special trust relationship with the people of Los Angeles County involving legal and moral obligations. One aspect of these obligations requires that those entrusted with public authority unfailingly demonstrate that they are worthy of the public's respect and committed to maintaining the absolute integrity of government.

(c) The people of Los Angeles County need and deserve an agency whose commitment to pursuing public interest outweighs any competing personal or political considerations.

(d) No code of conduct can anticipate all situations nor can it prescribe behaviors that are appropriate to most situations.

(e) Board members and their staff must exercise discretion and judgment to adhere to the spirit of the Code of Conduct codified by this act in Chapter 6 (commencing with Section 130600) of Division 12 of the Public Utilities Code. It is essential to recognize that an act is not ethical simply because it is legal and conduct is not proper simply because it is permissible. Board members should be willing to do more than the law requires and less than it allows. Strict

compliance is not necessarily enough, and attempts to evade or circumvent ethics laws and rules are improper. All actions, decisions, and votes should be made on their merits, objectively and without party, regional, or ideological bias.

(f) The Code of Conduct views the obligations of the MTA board members and their staff in a positive way. The statements of ethical standards and specific sanctions to enforce them are not driven by negative assumptions about the character of those who serve on the board. Instead they reflect the need for clarity and a commitment to the noble dimension of democratic government.

SEC. 2. 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.

If the number of members of the Los Angeles County Board of Supervisors is increased, the authority shall, within 60 days of the increase, submit a plan to the Legislature for revising the composition of the authority.

(b) The Mayor of the City of Los Angeles.

(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 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. 3. 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. 4. 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 responsible and responsive bid submitted.

(d) The Los Angeles County Metropolitan Transportation Authority shall appoint a general counsel and board secretary.

SEC. 5. Section 130051.17 of the Public Utilities Code is amended to read:

130051.17. (a) Prior to the approval of any contract by the Los Angeles County Metropolitan Transportation Authority, or by any organizational unit of the authority, the authority shall adopt an ordinance comparable to Chapter 9.5 (commencing with Section 89500) of Title 9 of the Government Code, which regulates the acceptance of gifts by members of the authority, members of the board of an organizational unit, and designated employees, as defined by Section 82019 of the Government Code, of the authority. The ordinance shall prohibit any designated employee of the

authority from accepting gifts with a total value of more than two hundred fifty dollars ($250) in a calendar year from any single source.

(b) The ordinance shall require the limitations on receiving gifts by members of the authority, and members of the board of an organizational unit who are not elected local officials to be substantially comparable to those specified by Chapter 9.5 (commencing with Section 89500) of Title 9 of the Government Code.

(c) For the purposes of this section, "gift" has the same meaning as defined in Section 82028 of the Government Code.

(d) (1) Payments, advances, or reimbursements, for travel, including actual transportation and related lodging and subsistence which is reasonably related to a governmental purpose, or to an issue of local, state, national or international public policy, is not prohibited or limited by this section if either of the following apply:

(A) The travel is in connection with a speech given by a member, member of the board of an organizational unit, or designated employee, the lodging and subsistence expenses are limited to the day immediately preceding, the day of, and the day immediately following the speech, and the travel is within the United States.

(B) The travel is provided by a government, a governmental agency, a foreign government, a governmental authority, a bona fide public or private educational institution, as defined in Section 203 of the Revenue and Taxation Code, or a nonprofit charitable or religious organization which is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, or by a person domiciled outside the United States which substantially satisfies the requirements for tax exempt status under Section 501(c)(3) of the Internal Revenue Code.

(2) Gifts of travel not described in paragraph (1) are subject to the limits in this section.

(3) Paragraph (1) applies only to travel which is reported on the recipient's statement of economic interest.

(4) For purposes of this section, a gift does not include travel which is provided by the Los Angeles County Metropolitan Transportation Authority.

(5) (A) The policy shall specify appropriate penalties for violations by employees including, but not limited to, personnel action.

(B) The policy shall specify appropriate penalties for violations by members of the authority, and the members of the board of an organizational unit who are not subject to Chapter 9.5 (commencing with Section 89500) of Title 9 of the Government Code, which shall include, but not be limited to, removal from office by the appointing authority.

SEC. 6. Section 130051.18 of the Public Utilities Code is amended to read:

130051.18. Prior to the approval of any contract by the Los Angeles County Metropolitan Transportation Authority, or by any organizational unit of the authority, the authority shall adopt and implement an ordinance for the regulation of lobbying which shall include, at a minimum, the provisions of this section.

(a) For purposes of this section, the following terms are defined as follows:

(1) "Activity expense" means any expense incurred or payment made by a lobbyist, lobbying firm, or lobbyist employer, or arranged by a lobbyist, lobbying firm, or lobbyist employer, which benefits in whole or in part any authority official, or a member of the immediate family of an authority official.

(2) "Administrative testimony" means influencing or attempting to influence authority action undertaken by any person or entity who does not seek to enter into a contract or other arrangement with the authority by acting as counsel in, appearing as a witness in, or providing written submissions, including answers to inquiries, which become a part of the record of, any proceeding of the authority which is conducted as an open public hearing for which public notice is given.

(3) "Authority" means the Los Angeles County Metropolitan Transportation Authority and all of its organizational units as defined by Section 130051.11.

(4) "Authority action" means the drafting, introduction, consideration, modification, enactment, or defeat of an ordinance, resolution, contract, or report by the governing board of an organizational unit of the authority, or by an authority official, including any action taken, or required to be taken, by a vote of the members of the authority or by the members of the governing board of an organizational unit of the authority, except those actions relating to Article 10 (commencing with Section 30750) of Chapter 5 of Part 3 of Division 10.

(5) "Authority official" means any member of the authority, member of an organizational unit of the authority, and employee of the authority.

(6) "Contribution" means a payment, a forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment except to the extent that full and adequate consideration is received unless it is clear from the surrounding circumstances that it is not made for political purposes.

An expenditure made at the behest of a candidate, committee, or elected officer is a contribution to the candidate, committee, or elected officer unless full and adequate consideration is received for making the expenditure.

"Contribution" also includes the purchase of tickets for events such as dinners, luncheons, rallies, and similar fundraising events; the candidate's own money or property used on behalf of his or her candidacy; the granting of discounts or rebates not extended to the

public generally or the granting of discounts or rebates by television and radio stations and newspapers not extended on an equal basis to all candidates for the same office; the payment of compensation by any person for the personal services or expenses of any other person if such services are rendered or expenses incurred on behalf of a candidate or committee without payment of full and adequate consideration.

"Contribution" also includes any transfer of anything of value received by a committee from another committee, unless full and adequate consideration is received.

"Contribution" does not include amounts received pursuant to an enforceable promise to the extent such amounts have been previously reported as a contribution. However, the fact that such amounts have been received shall be indicated in the appropriate campaign statement.

"Contribution" does not include a payment made by an occupant of a home or office for costs related to any meeting or fundraising event held in the occupant's home or office if the costs for the meeting or fundraising event are five hundred dollars ($500) or less.

"Contribution" does not include volunteer personal services or payments made by any individual for his or her own travel expenses if such payments are made voluntarily without any understanding or agreement that they shall be, directly or indirectly, repaid to him or her.

(7) "Employee of the authority" means anyone who receives compensation from the authority for full- or part-time employment, and any contractor, subcontractor, consultant, expert, or adviser acting on behalf of, or providing advice to, the authority.

(8) "Filing officer" means the individual designated by the authority with whom statements and reports required by this section shall be filed.

(9) "Lobbying" means influencing or attempting to influence authority action through direct or indirect communication, other than administrative testimony, with an authority official.

(10) "Lobbying firm" means any business entity, including an individual lobbyist, which meets either of the following criteria:

(A) The business entity receives or becomes entitled to receive any compensation, other than reimbursement for reasonable travel expenses, for the purpose of influencing authority action on behalf of any other person, and any partner, owner, officer, or employee of the business entity is a lobbyist.

(B) The business entity receives or becomes entitled to receive any compensation, other than reimbursement for reasonable travel expenses, to communicate directly with any agency official for the purpose of influencing authority action on behalf of any other person, if a substantial or regular portion of the activities for which the business entity receives compensation is for the purpose of influencing authority action.

(11) “Lobbyist” means any individual who receives any economic consideration, other than reimbursement for reasonable travel expenses, for lobbying, including consultants and officers or employees of any business entity seeking to enter into a contract with the authority.

(12) “Lobbyist employer” means any person, other than a lobbying firm, who does either of the following:

(A) Employs one or more lobbyists for the purpose of influencing authority action.

(B) Contracts for the services of a lobbying firm for economic consideration for the purpose of influencing authority action.

(b) (1) Lobbyists, lobbying firms, and lobbyist employers shall register with the filing officer within 10 days after qualifying as a lobbyist, lobbying firm, or lobbyist employer. Registration shall be completed prior to the commencement of lobbying by the lobbyist. Registration shall include the filing of a registration statement, and the payment of any fees authorized by this section. Registration shall be renewed annually by the filing of a new registration statement and the payment of a fee.

(2) Each lobbyist, lobbying firm, and lobbyist employer required to register under this section may be charged a fee by the authority that shall be in an amount necessary to pay the direct costs of implementing this section.

(3) The lobbyist registration statement shall include all of the following:

(A) The name, address, and telephone number of the lobbyist.

(B) For each person from whom the lobbyist receives compensation to provide lobbying services, all of the following:

(i) The full name, business address, and telephone number of the person.

(ii) A written authorization signed by the person.

(iii) The time period of the contract or employment agreement.

(iv) The lobbying interests of the person.

(C) A statement signed by the lobbyist certifying that he or she has read and understands the prohibitions contained in subdivisions (f) and (g).

(4) The registration statement of a lobbying firm shall include all of the following:

(A) The full name, business address, and telephone number of the lobbying firm.

(B) A list of the lobbyists who are partners, owners, officers, or employees of the lobbying firm.

(C) For each person with whom the lobbying firm contracts to provide lobbying services, all of the following:

(i) The full name, business address, and telephone number of the person.

(ii) A written authorization signed by the person.

(iii) The time period of the contract.

(iv) Information sufficient to identify the lobbying interests of the person.

(D) A statement signed by the designated responsible person that he or she has read and understands the prohibitions contained in subdivisions (f) and (g).

(5) The registration statement of a lobbyist employer shall include all of the following:

(A) The full name, business address, and telephone number of the lobbyist employer.

(B) A list of the lobbyists who are employed by the lobbyist employer.

(C) The lobbying interests of the lobbyist employer, including identification of specific contracts or authority actions.

(D) A statement signed by the designated responsible person that he or she has read and understands the prohibitions contained in subdivisions (f) and (g).

(6) (A) The registration statement may be amended within 10 days of a change in the information included in the statement. However, if the change includes the name of a person by whom a lobbyist is retained, the registration statement shall be amended to show that change prior to the commencement of lobbying by the lobbying firm or the lobbyist.

(B) Lobbying firms and lobbyist employers upon ceasing all lobbying activity which required registration shall file a notice of termination within 30 days after the cessation.

(C) Lobbyists and lobbyist firms shall remain subject to subdivisions (f) and (g) for 12 months after filing a notice of termination.

(c) Lobbyists, lobbying firms, and lobbyist employers which receive payments, make payments, or incur expenses or expect to receive payments, make payments, or incur expenses in connection with activities which are reportable pursuant to this section shall keep detailed accounts, records, bills, and receipts for four years, and shall make them reasonably available for inspection for the purposes of auditing for compliance with, or enforcement of, this section.

(d) When a person is required to report activity expenses pursuant to this section, all of the following information shall be provided:

(1) The date and amount of each activity expense.

(2) The full name and official position, if any, of the beneficiary of each expense, a description of the benefit, and the amount of the benefit.

(3) The full name of the payee of each expense if other than the beneficiary.

(e) (1) A lobbying firm shall file a periodic report containing all of the following:

(A) The full name, address, and telephone number of the lobbying firm.

(B) The full name, business address, and telephone number of each person who contracted with the lobbying firm for lobbying services, a description of the specific lobbying interests of the person, and the total payments, including fees and the reimbursement of expenses, received from the person for lobbying services during the reporting period.

(C) A copy of the periodic report completed and verified by each lobbyist in the lobbying firm pursuant to paragraph (2).

(D) Each activity expense incurred by the lobbying firm including those reimbursed by a person who contracts with the lobbying firm for lobbying services.

(E) The date, amount, and the name of the recipient of any contribution of one hundred dollars ($100) or more made by the filer to an authority official.

(2) A lobbyist shall complete and verify a periodic report, and file his or her report with the filing officer, and a copy of the report with his or her lobbying firm or lobbyist employer. The periodic report shall contain all of the following:

(A) A report of all activity expenses by the lobbyist during the reporting period.

(B) A report of all contributions of one hundred dollars ($100) or more made or delivered by the lobbyist to any authority official during the reporting period.

(3) A lobbyist employer shall file a periodic report containing all of the following:

(A) The name, business address, and telephone number of the lobbyist employer.

(B) The total amount of payments to each lobbying firm.

(C) The total amount of all payments to lobbyists employed by the filer.

(D) A description of the specific lobbying interests of the filer.

(E) A periodic report, completed and verified by each lobbyist employed by a lobbyist employer pursuant to paragraph (1) of subdivision (e).

(F) Each activity expense of the filer and a total of all activity expenses of the filer.

(G) The date, amount, and the name of the recipient of any contribution of one hundred dollars ($100) or more made by the filer to an authority official.

(H) The total of all other payments to influence authority action.

(4) (A) The periodic reports shall be filed within 30 days after the end of each calendar quarter. The period covered shall be from the beginning of the calendar year through the last day of the calendar quarter prior to the 30-day period during which the report is filed, except that the period covered by the first report a person is required to file shall begin with the first day of the calendar quarter in which the filer first registered or qualified.

(B) The original and one copy of each report shall be filed with the filing officer, shall be retained by the authority for a minimum of four years, and shall be available for inspection by the public during regular working hours.

(f) (1) It is unlawful for a lobbyist, a lobbying firm, or a lobbyist employer to make gifts to an authority official aggregating more than ten dollars ($10) in a calendar month, or to act as an agent or intermediary in the making of any gift, or to arrange for the making of any gift by any other person.

(2) It is unlawful for any authority official knowingly to receive any gift which is made unlawful by this section. For the purposes of this subdivision, "gift" has the same meaning as defined in Section 130051.17.

(g) No lobbyist or lobbying firm shall do any of the following:

(1) Do anything with the purpose of placing an authority official under personal obligation to the lobbyist, the lobbying firm, or the lobbyist's or the firm's employer.

(2) Deceive or attempt to deceive any authority official with regard to any material fact pertinent to any authority action.

(3) Cause or influence any authority action for the purpose of thereafter being employed to secure its passage or defeat.

(4) Attempt to create a fictitious appearance of public favor or disfavor of any authority action, or cause any communications to be sent to any authority official in the name of any fictitious person or in the name of any real person, except with the consent of that real person.

(5) Represent falsely, either directly or indirectly, that the lobbyist or the lobbying firm can control any authority official.

(6) Accept or agree to accept any payment that is contingent upon the outcome of any authority action.

(h) Any person who knowingly or willfully violates any provision of this section is guilty of a misdemeanor.

(i) The District Attorney of the County of Los Angeles is responsible for the prosecution of violations of this section.

(j) Any person who violates any provision of this section is liable in a civil action brought by the civil prosecutor or by a person residing within the jurisdiction of the authority for an amount up to five hundred dollars ($500), or three times the amount of an unlawful gift or expenditure, whichever is greater.

(k) The authority shall reject any bid or other proposal to enter into a contract with the authority by any person or entity that has not complied with the registration and reporting requirements of this section.

(*l*) The provisions of this section are not applicable to any of the following:

(1) An elected public official who is acting in his or her official capacity to influence authority action.

(2) Any newspaper or other periodical of general circulation, book publisher, radio or television station which, in the ordinary course of business, publishes or broadcasts news items, editorials, or other documents, or paid advertisement, that directly or indirectly urges authority action, if the newspaper, periodical, book publisher, radio or television station engages in no further or other activities in connection with urging authority action other than to appear before the authority in support of, or in opposition to the authority action.

(m) No former authority official shall become a lobbyist for a period of one year after leaving the authority.

SEC. 7. Section 130051.28 is added to the Public Utilities Code, to read:

130051.28. (a) The Los Angeles County Metropolitan Transportation Authority shall appoint an inspector general to a term of office of four years. The inspector general shall be removed from office only if either or both of the following occur:

(1) A two-thirds majority of the members of the authority votes for removal.

(2) The inspector general violates a federal or state law or regulation, a local ordinance, or a policy or practice of the authority, relative to ethical practices, including, but not limited to, the acceptance of gifts or contributions.

(b) 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.

(c) 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. 8. Chapter 6 (commencing with Section 130600) is added to Division 12 of the Public Utilities Code, to read:

## CHAPTER 6. CODE OF CONDUCT FOR THE BOARD OF THE LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY

130600. For purposes of this chapter, the following terms have the following meanings:

(a) “Board” means the board of directors of the Los Angeles County Metropolitan Transportation Authority.

(c) “Entitlement for use” includes all contracts except competitively bid, labor, or personal employment contracts, regardless of whether an individual accepts, solicits, or directs the contribution for himself or herself or on behalf of any other candidate or committee.

(d) “Gift” has the same meaning as defined in Section 82028 of the Government Code.

(e) "Indirect investment or interest" means any investment or interest owned by the spouse or dependent children of an individual, by an agent on behalf of the individual, or by a business entity or trust in which the individual, the individual's agents, spouse, or dependent children own directly, indirectly or beneficially a 10 percent interest or greater.

(f) "Participant" means any person, other than a party, as defined in subdivision (g), who is not a party but who actively supports or opposes a particular decision in a proceeding involving a license permit or other entitlement for use, including contract actions, and who has a financial interest in the decision. A person actively supports or opposes a particular decision in a proceeding if he or she lobbies in person the board members or MTA employees, testifies in person before the MTA, or otherwise acts to influence officers of the agency.

(g) "Party" means any person who files an application for, or is the subject of, a proceeding involving a license, permit, or other entitlement for use to competitively bid on contracts, including contract amendments and change orders.

(h) "MTA" means the Los Angeles County Metropolitan Transportation Authority.

130605. Any reference in this chapter to "chief executive officer," "general counsel," "counsel," "inspector general," "board secretary," or "secretary" is to the officers of the Los Angeles County Metropolitan Transportation Authority appointed under Sections 130051.9 and 130051.25.

130610. (a) The board shall appoint an ethics officer, who shall report to the board.

(b) When in doubt as to the applicability of any provision of this chapter to any particular situation, a board member shall contact the general counsel or the ethics officer for advice.

130615. (a) The provisions of this chapter shall be enforced by the inspector general.

(b) Any violation of this chapter that is also a violation of other state law or of local or federal law may also be prosecuted by the appropriate authority.

(c) Upon notice of a possible violation of this chapter, the board shall refer the matter to the inspector general for investigation. Upon completion of the investigation, if the matter has been determined not to be criminal in nature and to be of such a nature that it may be disclosed, the inspector general shall report the findings to the board. If the matter is determined to be criminal in nature, the inspector general shall refer the matter to the appropriate enforcement authorities for prosecution.

130620. (a) Sanctions for violations of this chapter shall be determined by the board. The sanctions imposed shall depend upon the severity of the infraction and may be progressive unless the violation is determined to be so egregious as to warrant more severe action initially.

(b) The board may consult with the inspector general for an opinion regarding the sanctions appropriate to any particular violation.

(c) Sanctions imposed under this section may include, but are not limited to, any of the following:

(1) Private reprimand by the board.

(2) Public censure by the board at a regularly scheduled meeting.

(3) Disqualification from participating in any discussion or vote on any matter related to the violation.

(4) Removal of the board member from one or more committees for a period of time.

(5) Permanent removal of the board member from one or more committees.

(6) Suspension from all board actions for a period of time.

(7) A monetary fine in an amount determined by the board.

(d) If a board member is criminally indicted, he or she shall be suspended from all board actions for the duration of the criminal proceeding. If the board member is acquitted of the charges, he or she shall return to the board as a full, participating member.

(e) For violations of this chapter that result in findings of criminal or civil liability, the board may recommend additional sanctions to the inspector general after the civil or criminal proceedings are completed.

130625. Confidential information, particularly investigative reports for the inspector general, shall not be disseminated beyond the authorized recipient of the report.

130630. The role of the board as it relates to the MTA is as follows:

(a) The board provides counsel and direction to management and shall not be involved in the day-to-day affairs of the MTA.

(b) Board members do not have individual power or authority over the MTA. That power and decision-making authority lie with the full board.

130635. The rules of conduct at board meetings shall apply to all matters under consideration by the board except for ceremonial matters and are as follows:

(a) Board members shall treat MTA staff members and each other with respect and courtesy.

(b) Disagreements shall not result in personal comments or attacks against an MTA staff member or another board member.

(c) When any member is recognized to speak at a board meeting, the board member shall address the chair.

(d) When two or more members address the chair at the same time, the chair shall name the member who is to be the first to speak.

(e) When speaking, a member shall confine his or her remarks to the topic under debate or discussion.

(f) Each member, in the order recognized by the chair, shall have not more than five minutes to speak.

(g) Answers to questions asked by a member shall be counted against the member's five minutes.

(h) Once having recognized a member to speak, the chair shall not recognize that member to be heard again, except to answer questions, until all other board members have had an opportunity to speak.

(i) All members shall have an opportunity to speak before the chair may enter the discussion.

(j) After all members desiring to speak have had an opportunity to be heard once, the time for each member desiring to speak again, or for the first time, shall be limited to a maximum of three minutes.

(k) There shall be no limit to the number of times a member is allowed to speak.

(*l*) The secretary shall time the members when discussion of an issue begins and notify the chair when a member's time has expired.

130640. (a) Members shall not publicly engage in personal attacks on MTA employees or attempt to discipline any employee.

(b) Any concerns regarding an employee's performance shall be communicated to the chief executive officer.

(c) Any concerns regarding the performance of an officer of the board shall be communicated to that officer.

(d) Nothing in this section limits the right of the board to evaluate board officers.

130650. Committee chairs shall present items from their committee meetings and the recommendation of their committee.

130655. (a) All members shall be afforded an adequate opportunity to review written motions having financial or policy implications prior to the board meeting.

(b) A written motion having financial or policy implications shall be referred to the appropriate committee for recommendation to the full board, unless the motion is distributed to all board members not later than 48 hours prior to the board meeting or this requirement is waived by the vote of nine board members.

130660. (a) Board members or their staff are prohibited from soliciting or accepting any gift from MTA contractors or from persons or entities that have submitted a proposal or bid for an MTA contract.

(b) Board members or their staff shall not accept gifts aggregating two hundred eighty-nine dollars ($289) or more, as specified in Section 89502 or 89503 of the Government Code, from a single source in any calendar year.

(c) Board members shall disqualify themselves from participating in a decision that may have a financial effect upon a source of income aggregating two hundred fifty dollars ($250) or more or a donor of gifts aggregating two hundred eighty-nine dollars ($289) or more, if those gifts were received within 12 months preceding the time of the decision.

(d) Board members shall not accept gifts aggregating more than ten dollars ($10) in a calendar month from an MTA registered lobbyist, lobbying firm, or lobbyist employer.

(e) Board members shall report on their annual Statement of Economic Interest gifts aggregating fifty dollars ($50) or more and income of two hundred fifty dollars ($250) or more received from a single source in a calendar year.

130665. (a) Board members or their staff shall not accept any payment made for a speech given, an article published, participation in a program, or any other appearance at a public or private conference, convention, meeting, social event, meal, or similar gathering.

(b) This section does not prohibit payments for actual personal services rendered in connection with a member's practice of a bona fide business, trade, or profession.

130670. Reimbursement for travel or lodging may be exempt from the provisions prohibiting gifts if the travel is related to MTA business. That reimbursement, however, shall be reported in the annual Statement of Economic Interest. The general counsel may be consulted prior to accepting payment or reimbursement to determine whether that reimbursement should be disqualified as a gift.

130675. Board members shall not direct any MTA employee, contractor or potential contractor to make a charitable contribution to a specified agency.

130680. (a) The chief executive officer shall be responsible for ensuring the MTA has an independent professional procurement staff. The chief executive officer and designated procurement staff shall be responsible for conducing an independent, autonomous procurement process in accordance with state and federal law.

(b) Board members shall use objective judgment in voting on a procurement award and base their decision on the criteria established in the procurement documents.

(c) Board members or their staff shall not attempt to influence contract awards.

(d) During any procurement process, board members or their staff shall not communicate with MTA staff regarding the procurement.

(e) Before the staff recommendation for an award is made public, board members or their staff shall only communicate with the chief executive officer or his or her designee regarding the procurement. The chief executive officer shall keep a log of those communications and shall report those communications and responses in writing at the board meeting where action on the procurement is scheduled.

(f) Board members or their staff shall not attempt to obtain information about the recommendation of the award of a contract until the recommendation is made public.

(g) Board members shall not release information about the procurement to the public until the award recommendation is made public.

(h) If a board member attempts to communicate with MTA staff to influence the recommended award, this communication shall be reported by staff to the inspector general.

130685. (a) Prior to the issuance of a request for proposal (RFP), request for interest in qualification (RFIQ), or invitation for bid (IFB), and ending on the date of the selection of the contractor, no person or entity submitting a proposal in response to the RFP, RFIQ, or IFB, nor any officer, employee, representative, agent, or consultant representing the proposer shall contact by any means or engage in any discussion concerning the award of the contract with any board member or his or her staff. Any contact shall be grounds for the disqualification of the proposer.

(b) A board member who receives any communication from a proposer in violation of this chapter shall report that communication to the inspector general. The inspector general shall forward this information to the director of contracts and responsible procurement staff.

(c) Board members shall not meet with a person or entity who submitted a proposal in response to the RFP, RFIQ, or IFB, nor any officer, employee, representative, agent, or consultant representing the proposer regarding a protest submitted regarding the recommended contract award or any lawsuit or potential lawsuit regarding the recommended contract award.

130690. Board members and their staff shall refrain from conduct that they know or reasonably should know is likely to create in the minds of reasonable observers the perception that the board member or staff member used his or her public position improperly.

130695. (a) No board member shall accept, solicit, or direct a contribution, including contributions to candidates and committees in federal, state, or local elections, of more than two hundred fifty dollars ($250) from any party, or that party's agent, or from any participant, or that participant's agent, while a proceeding involving a license, permit, or other entitlement for use, is pending before the MTA and for six months following the date a final decision is rendered. This prohibition applies regardless of whether the individual accepts, solicits, or directs the contribution for himself or herself or on behalf of any other candidate or committee.

(b) No board member shall accept, solicit, or direct a contribution of more than two hundred fifty dollars ($250) from any subcontractor to a contract pending before MTA and for six months following the date a final decision is rendered. This prohibition applies regardless of whether the individual accepts, solicits, or directs the contribution for himself or herself or on behalf of any other candidate or committee.

(c) MTA board members or their staff or agents shall not solicit political contributions from other employees or contractors while on duty and shall not coerce those contributions.

(d) MTA board members or staff or agents shall not, directly or indirectly, knowingly solicit political funds or political contributions from other officers or employees of the MTA or from persons on the employment lists of the MTA. Nothing in this section prohibits an MTA officer or employee from communicating through the mail or by other means requests for political funds or contributions to a significant segment of the public which may include officers or employees of the MTA.

(e) Prior to rendering any decision on an entitlement for use pending before the MTA, each board member who received a contribution within the preceding twelve months in an amount of more than two hundred fifty dollars ($250) from a party, subcontractor to a party, or from any participant shall disclose that fact on the record of the proceeding.

(f) If a board member receives a contribution that would otherwise require disqualification under this section, and returns the contribution within 30 days from the time he or she knows, or should have known, about the contribution and the proceeding involving a license permit or other entitlement for use, he or she shall be permitted to participate in the proceeding.

(g) All alternates or designees to the MTA board representing members of the Los Angeles County Board of Supervisors are prohibited from participating in or voting on a decision where the member they represent has received a contribution that disqualifies that member from participating in the decision.

(h) Board members and their staff shall not use MTA employees to solicit campaign contributions from MTA contractors, potential contractors, or other MTA employees. MTA employees and contractors and potential contractors may make contributions on their own.

(i) No board member or member of his or her staff shall make, participate in making, or in any way attempt to use his or her official position to influence a contract decision if the board member has willfully or knowingly received a contribution in an amount of more than two hundred fifty dollars ($250) within the preceding 12 months from a party or his or her agent, or from any participant, or his or her agent, if the board member knows or has reason to know that the participant has a financial interest in the matter under deliberation. This prohibition includes contributions from subcontractors.

130700. (a) Board members or their staff shall not participate in an MTA decision in which they know or have reason to know that they have a financial interest.

(b) Board members shall not be purchasers at any sale, or vendors at any purchase, that is made personally by that member.

(c) An individual is deemed to have a financial interest in a decision if it is reasonably foreseeable that the decision will have a material financial effect on that individual or the individual's immediate family, distinguishable from its effect on the public generally, or on any of the following:

(1) Any business entity in which the board member or staff member has a direct or indirect investment worth one thousand dollars ($1,000) or more.

(2) Any real property in which the board member or staff member has a direct or indirect interest worth one thousand dollars ($1,000) or more.

(3) Any source of income, other than gifts and other than loans by a commercial lending institution made in the regular course of business in terms available to the public without regard to official status, aggregating two hundred fifty dollars ($250) or more in value provided to, received by, or promised to the board member or staff member within 12 months prior to the time when the decision is made.

(4) Any business entity in which the board member or a member of his or her staff is a director, officer, partner, trustee, or employee, or holds any position of management.

(5) Any donor or, or any intermediary of, agent for a donor of a gift or gifts aggregating two hundred eighty-nine dollars ($289) or more in value provided to, received by, or promised to, the board member or staff member within 12 months prior to the time the decision is made.

(d) This section does not prohibit a board member from participating in a decision if that participation is legally required in order for the decision to be made. In that case the individual shall disclose the nature of his or her interest before he or she participates in the decision. For the purposes of this subdivision, the fact that a board member's vote is necessary to break a tie does not make his or her participation legally required.

130705. (a) Board members or their staff shall not engage in any employment, activity, or enterprise that is inconsistent, incompatible, or in conflict with the duties of an MTA officer.

(b) Board members or their staff shall not use the MTA's facilities, equipment, supplies, badge, prestige, or influence for private gain.

130710. The MTA shall not contract with any of the following:

(a) MTA board members or their staff.

(b) Any profit-making firm or business in which a former board member or member of his or her staff is an officer, principal, partner, or major shareholder.

130715. (a) Former board members or their staff shall not participate in any contract with the agency for a period of 12 months after leaving the board.

(b) MTA shall not contract with any profit-making firm or business in which a former board member or member of his or her

staff is an officer, principal, or partner, or is a shareholder who holds more than 10 percent of the stock in the company, for a period of 12 months after the board member has left the board.

130720. Board members shall file Statements of Economic Interest with the ethics officer pursuant to state law, within 30 days of assuming office, annually, and within 30 days of leaving office.

(b) Board members shall file an addendum to the statement required under subdivision (a), disclosing all financial interests both within and outside Los Angeles County, including those financial interests received during the reporting period by all entities in which the member is an officer, principal, partner, or major shareholder.

(c) Any amendments to the Statement of Economic Interest or addendum shall be filed within 30 days of the occurrence of the change.

130725. Any person who receives compensation to regularly provide advice, recommendations, or counsel to board members regarding MTA activities shall file a Statement of Economic Interest with the MTA within 10 days of the commencement of the consultant relationship and shall update that statement within 30 days of the end of each calendar quarter. This requirement does not apply to a full time employee of a governmental entity who is already required to file a statement.

130730. Any person who regularly provides advice, recommendations, or counsel to board members regarding MTA activities and also advises another agency or entity that has a financial interest in an item before the board shall be prohibited from giving advice to board members and MTA staff regarding that item.

SEC. 9. Section 130695, as proposed to be added to the Public Utilities Code by Section 8 of this act, shall not become operative if SB 89 is also enacted and becomes operative on or before January 1, 1998.

SEC. 10. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

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

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# CHAPTER 901

An act to amend Sections 13350, 13352, 14601.2, 14601.3, 23159, and 23206.5 of, and to add Section 23175.5 to, the Vehicle Code, relating to vehicles.

[Approved by Governor October 12, 1997. Filed with Secretary of State October 12, 1997.]

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

SECTION 1. Section 13350 of the Vehicle Code is amended to read:

13350. (a) The department immediately shall revoke the privilege of any person to drive a motor vehicle upon receipt of a duly certified abstract of the record of any court showing that the person has been convicted of any of the following crimes or offenses:

(1) Failure of the driver of a vehicle involved in an accident resulting in injury or death to any person to stop or otherwise comply with Section 20001.

(2) Any felony in the commission of which a motor vehicle is used, except as provided in Section 13351, 13352, or 13357.

(3) Reckless driving causing bodily injury.

(b) If a person is convicted of a violation of Section 23152 punishable under Section 23170, 23175, or 23175.5, or a violation of Section 23153 punishable under Section 23190, including a violation of paragraph (3) of subdivision (c) of Section 192 of the Penal Code as provided in Section 193.7 of that code, the court shall, at the time of surrender of the driver's license or temporary permit, require the defendant to sign an affidavit in a form provided by the department acknowledging his or her understanding of the revocation required by paragraph (5), (6), or (7) of subdivision (a) of Section 13352, and an acknowledgment of his or her designation as an habitual traffic offender. A copy of this affidavit shall be transmitted, with the license or temporary permit, to the department within the prescribed 10 days.

(c) The department shall not reinstate the privilege revoked under subdivision (a) until the expiration of one year after the date of revocation and until the person whose privilege was revoked gives proof of financial responsibility as defined in Section 16430.

SEC. 2. Section 13352 of the Vehicle Code is amended to read:

13352. (a) The department shall immediately suspend or revoke, or record the court-administered suspension or revocation of, the privilege of any person to operate a motor vehicle upon receipt of a duly certified abstract of the record of any court showing that the person has been convicted of a violation of Section 23152 or 23153 or subdivision (a) of Section 23109, or upon receipt of a report of a judge of the juvenile court, a juvenile traffic hearing officer, or a referee of

a juvenile court showing that the person has been found to have committed a violation of Section 23152 or 23153 or subdivision (a) of Section 23109. If any offense in this section occurs in a vehicle defined in Section 15210, the suspension or revocation specified below shall apply to the noncommercial driving privilege. The commercial driving privilege shall be disqualified as specified in Section 15300. For purposes of this section, suspension or revocation shall be as follows:

(1) Upon a conviction or finding of a violation of Section 23152 punishable under Section 23160, the privilege shall be suspended for a period of six months if the court orders the department to suspend the privilege, or if the court does not grant probation. If the person gives proof of ability to respond in damages as defined in Section 16430, the department shall issue the restricted license upon receipt of an abstract of record from the court pursuant to Section 1803 certifying that the court has granted probation to the person on conditions which include the condition specified in subdivision (b) of Section 23161. The privilege shall not be reinstated until the person gives proof of ability to respond in damages and gives proof satisfactory to the department of successful completion of a program described in Section 23161.

(2) Upon a conviction or finding of a violation of Section 23153 punishable under Section 23180, the privilege shall be suspended for a period of one year. The privilege shall not be reinstated until the person gives proof of ability to respond in damages and gives proof satisfactory to the department of successful completion of a program described in Section 23161.

(3) Except as provided in Section 13352.5, upon a conviction or finding of a violation of Section 23152 punishable under Section 23165, the privilege shall be suspended for 18 months. The privilege shall not be reinstated until the person gives proof of ability to respond in damages and gives proof satisfactory to the department of successful completion of a program described in Section 23166.

(4) Except as provided in Section 13352.5, upon a conviction or finding of a violation of Section 23153 punishable under Section 23185, the privilege shall be revoked for a period of three years. The privilege shall not be reinstated until evidence satisfactory to the department establishes that no grounds exist which would authorize the refusal to issue a license and until the person gives proof of ability to respond in damages, and until the person gives proof satisfactory to the department of successful completion of a program described in Section 23166.

(5) Upon a conviction or finding of a violation of Section 23152 punishable under Section 23170, the privilege shall be revoked for a period of three years. The privilege shall not be reinstated until the person files proof of ability to respond in damages and gives proof satisfactory to the department of successful completion, subsequent to the most recent underlying conviction, of one of the following

programs: an 18-month program or, if available in the county of the person's residence or employment, a 30-month program licensed pursuant to Chapter 9 (commencing with Section 11836) of Part 2 of Division 10.5 of the Health and Safety Code, or a program specified in Section 8001 of the Penal Code. The court shall advise the person at the time of sentencing that completion of one of the programs authorized by this paragraph is required in order to become eligible for a California driver's license. The court shall also advise the person that after the completion of 24 months of the revocation period, the person may apply to the court for an order granting a restricted driver's license, subject to the following conditions:

(A) The person has satisfactorily completed, subject to the current underlying conviction, either of the following:

(i) A licensed 18-month program pursuant to Section 11836 of the Health and Safety Code.

(ii) The initial 18 months of a licensed 30-month program, if available in the county of the person's residence or employment, pursuant to Section 11836 of the Health and Safety Code.

(B) The person agrees, as a condition of the restriction, to continue satisfactory participation in the 30-month program, if applicable, and to have installed and maintained, as described in Section 23246, an ignition interlock device. The court shall require proof of installation of the device before issuing an order granting a restricted license. Once the order granting a restricted license is issued, all maintenance requirements in Section 23246 apply and the driver becomes subject to the prohibitions and penalties provided in Section 23247.

(C) The person provides proof of responsibility to respond in damages.

(D) The person has not applied for and received an order in conjunction with the current underlying conviction or a prior conviction for violation of Section 23103, 23152, or 23153, if the prior conviction was within the previous seven years.

(E) Any individual convicted of a violation of Section 23152 punishable under Section 23170 may also, at any time after sentencing, petition the court for referral to an 18-month program or, if available in the county of the person's residence or employment, a 30-month program licensed pursuant to Chapter 9 (commencing with Section 11836) of Part 2 of Division 10.5 of the Health and Safety Code. Unless good cause is shown, the court shall order the referral.

(6) Upon a conviction or finding of a violation of Section 23153 punishable under Section 23190, the privilege shall be revoked for a period of five years. The privilege shall not be reinstated until evidence satisfactory to the department establishes that no grounds exist which would authorize the refusal to issue a license and until the person gives proof of ability to respond in damages and gives proof satisfactory to the department of successful completion, subsequent to the most recent underlying conviction, of one of the following

programs: a 30-month program, if available in the county of the person's residence or employment or, if not available, an 18-month program licensed pursuant to Chapter 9 (commencing with Section 11836) of Part 2 of Division 10.5 of the Health and Safety Code, or a program specified in Section 8001 of the Penal Code. The court shall advise the person at the time of sentencing that completion of one of the programs authorized by this paragraph is required in order to become eligible for a California driver's license. The court shall also advise the person that after the completion of 24 months of the revocation period, the person may apply to the court for an order granting a restricted driver's license, subject to the following conditions:

(A) (i) The person has satisfactorily completed, subject to the current underlying conviction, the 18-month program or the initial 18 months of a licensed 30-month program, as applicable, pursuant to Section 11836 of the Health and Safety Code.

(ii) The person agrees, as a condition of the restriction, to continue satisfactory participation in the 30-month program, if applicable, and to have installed and maintained, as described in Section 23246, an ignition interlock device. The court shall require proof of installation of the device before issuing an order granting a restricted license. Once the order granting a restricted license is issued, all maintenance requirements in Section 23246 apply and the driver becomes subject to the prohibitions and penalties provided in Section 23247.

(iii) The person provides proof of responsibility to respond in damages.

(iv) The person has not applied for and received an order in conjunction with the current underlying conviction or a prior conviction for a violation of Section 23103, 23152, or 23153, if the prior conviction was within the previous seven years.

(B) Any individual convicted of a violation of Section 23153 punishable under Section 23190 may also, at any time after sentencing, petition the court for referral to an 18-month program or, if available in the county of the person's residence or employment, a 30-month program licensed pursuant to Chapter 9 (commencing with Section 11836) of Part 2 of Division 10.5 of the Health and Safety Code. Unless good cause is shown, the court shall order the referral.

(7) Upon a conviction or finding of a violation of Section 23152 punishable under Section 23175 or 23175.5, the privilege shall be revoked for a period of four years. The privilege shall not be reinstated until evidence satisfactory to the department establishes that no grounds exist which would authorize the refusal to issue a license and until the person gives proof of ability to respond in damages and gives proof satisfactory to the department of successful completion, subsequent to the most recent underlying conviction, of one of the following programs: an 18-month program or, if available in the county of the person's residence or employment, a 30-month program licensed pursuant to Chapter 9 (commencing with Section

11836) of Part 2 of Division 10.5 of the Health and Safety Code, or a program specified in Section 8001 of the Penal Code. The court shall advise the person at the time of sentencing that completion of one of the programs authorized by this paragraph is required in order to become eligible for a California driver's license. The court shall also advise the person that after the completion of 24 months of the revocation period, the person may apply to the court for an order granting a restricted driver's license, subject to the following conditions:

(A) The person has satisfactorily completed, subject to the current underlying conviction, the initial 18 months of a licensed 30-month program pursuant to Section 11836 of the Health and Safety Code.

(B) The person agrees, as a condition of the restriction, to continue satisfactory participation in the 30-month program, if applicable, and to have installed and maintained, as described in Section 23246, an ignition interlock device. The court shall require proof of installation of the device before issuing an order granting a restricted license. Once the order granting a restricted license is issued, all maintenance requirements in Section 23246 apply and the driver becomes subject to the prohibitions and penalties provided in Section 23247.

(C) The person provides proof of responsibility to respond in damages.

(D) The person has not applied for and received an order in conjunction with the current underlying conviction or a prior conviction for violation of Section 23103, 23152, or 23153, if the prior conviction was within the previous seven years.

(E) Any individual convicted of a violation of Section 23152 punishable under Section 23175 may also, at any time after sentencing, petition the court for referral to an 18-month program or, if available in the county of the person's residence or employment, a 30-month program licensed pursuant to Chapter 9 (commencing with Section 11836) of Part 2 of Division 10.5 of the Health and Safety Code. Unless good cause is shown, the court shall order the referral.

(8) Upon a conviction or finding of a violation of subdivision (a) of Section 23109 punishable under subdivision (e) of that section, the privilege shall be suspended for a period of 90 days to six months, if and as ordered by the court.

(9) Upon a conviction or finding of a violation of subdivision (a) of Section 23109 punishable under subdivision (f) of that section, the privilege shall be suspended for a period of six months, if the court orders the department to suspend the privilege. The privilege shall not be reinstated until the person gives proof of ability to respond in damages.

(b) For the purpose of paragraphs (2) to (9), inclusive, of subdivision (a), the finding of the juvenile court judge, the juvenile traffic hearing officer, or the referee of a juvenile court of a commission of a violation of Section 23152 or 23153 or subdivision (a)

of Section 23109, as specified in subdivision (a) of this section, is a conviction.

(c) Each judge of a juvenile court, juvenile traffic hearing officer, or referee of a juvenile court shall immediately report the findings specified in subdivision (a) to the department.

(d) A conviction of an offense in any state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or Canada which, if committed in this state, would be a violation of Section 23152, is a conviction of Section 23152 for purposes of this section, and a conviction of an offense which, if committed in this state, would be a violation of Section 23153, is a conviction of Section 23153 for purposes of this section. The department shall suspend or revoke the privilege to operate a motor vehicle pursuant to this section upon receiving notice of that conviction.

(e) Whenever the driving privilege is restricted, suspended, or revoked pursuant to this section, the department shall not issue a restricted driver's license or reinstate the driving privilege unless the person gives proof of ability to respond in damages and maintains that proof for three years. If, at any time during that three-year period, a person who is required to maintain that proof fails to maintain that proof, the department shall suspend that person's driving privilege until the proof of ability to respond in damages is again given to the department.

SEC. 3. Section 14601.2 of the Vehicle Code is amended to read:

14601.2. (a) No person shall drive a motor vehicle at any time when that person's driving privilege is suspended or revoked for a conviction of a violation of Section 23152 or 23153, if the person so driving has knowledge of the suspension or revocation.

(b) Except in full compliance with the restriction, no person shall drive a motor vehicle at any time when that person's driving privilege is restricted pursuant to Article 2 (commencing with Section 23152) of Chapter 12 of Division 11, if the person so driving has knowledge of the restriction.

(c) Knowledge of suspension or revocation of the driving privilege shall be conclusively presumed if mailed notice has been given by the department to the person pursuant to Section 13106. Knowledge of restriction of the driving privilege shall be presumed if notice has been given by the court to the person. The presumption established by this subdivision is a presumption affecting the burden of proof.

(d) Any person convicted of a violation of this section shall be punished as follows:

(1) Upon a first conviction, by imprisonment in the county jail for not less than 10 days or more than six months and by a fine of not less than three hundred dollars ($300) or more than one thousand dollars ($1,000), unless the person has been designated an habitual traffic offender under subdivision (b) of Section 23170, subdivision (b) of

Section 23175, or subdivision (b) of Section 23175.5, in which case the person shall, in addition, be sentenced as provided in paragraph (3) of subdivision (e) of Section 14601.3.

(2) If the offense occurred within five years of a prior offense which resulted in a conviction of a violation of this section or Section 14601, 14601.1, or 14601.5, by imprisonment in the county jail for not less than 30 days or more than one year and by a fine of not less than five hundred dollars ($500) or more than two thousand dollars ($2,000), unless the person has been designated an habitual traffic offender under subdivision (b) of Section 23170 or subdivision (b) of Section 23175, in which case the person shall, in addition, be sentenced as provided in paragraph (3) of subdivision (e) of Section 14601.3.

(e) If any person is convicted of a first offense under this section and is granted probation, the court shall impose as a condition of probation that the person be confined in the county jail for at least 10 days.

(f) If the offense occurred within five years of a prior offense which resulted in a conviction of a violation of this section or Section 14601, 14601.1, or 14601.5 and is granted probation, the court shall impose as a condition of probation that the person be confined in the county jail for at least 30 days.

(g) If any person is convicted of a second or subsequent offense which results in a conviction of this section within seven years, but over five years, of a prior offense which resulted in a conviction of a violation of this section or Section 14601, 14601.1, or 14601.5 and is granted probation, the court shall impose as a condition of probation that the person be confined in the county jail for at least 10 days.

(h) Nothing in this section prohibits a person who is participating in, or has completed, an alcohol or drug rehabilitation program from driving a motor vehicle, which is owned or utilized by the person's employer, during the course of employment on private property which is owned or utilized by the employer, except an offstreet parking facility as defined in subdivision (d) of Section 12500.

SEC. 4. Section 14601.3 of the Vehicle Code is amended to read:

14601.3. (a) It is unlawful for a person whose driving privilege has been suspended or revoked to accumulate a driving record history which results from driving during the period of suspension or revocation. A person who violates this subdivision is designated an habitual traffic offender.

For purposes of this section, a driving record history means any of the following, if the driving occurred during any period of suspension or revocation:

(1) Two or more convictions within a 12-month period of an offense given a violation point count of two pursuant to Section 12810.

(2) Three or more convictions within a 12-month period of an offense given a violation point count of one pursuant to Section 12810.

(3) Three or more accidents within a 12-month period that are subject to the reporting requirements of Section 16000.

(4) Any combination of convictions or accidents, as specified in paragraphs (1) to (3), inclusive, which results during any 12-month period in a violation point count of three or more pursuant to Section 12810.

(b) Knowledge of suspension or revocation of the driving privilege shall be conclusively presumed if mailed notice has been given by the department to the person pursuant to Section 13106. The presumption established by this subdivision is a presumption affecting the burden of proof.

(c) The department, within 30 days of receipt of a duly certified abstract of the record of any court or accident report which results in a person being designated an habitual traffic offender, may execute and transmit by mail a notice of that designation to the office of the district attorney having jurisdiction over the location of the person's last known address as contained in the department's records.

(d) (1) The district attorney, within 30 days of receiving the notice required in subdivision (c), shall inform the department of whether or not the person will be prosecuted for being an habitual traffic offender.

(2) Notwithstanding any other provision of this section, any habitual traffic offender designated under subdivision (b) of Section 23170, subdivision (b) of Section 23175, or subdivision (b) of Section 23175.5, who is convicted of violating Section 14601.2 shall be sentenced as provided in paragraph (3) of subdivision (e).

(e) Any person convicted under this section of being an habitual traffic offender shall be punished as follows:

(1) Upon a first conviction, by imprisonment in the county jail for 30 days and by a fine of one thousand dollars ($1,000).

(2) Upon a second or any subsequent offense within seven years of a prior conviction under this section, by imprisonment in the county jail for 180 days and by a fine of two thousand dollars ($2,000).

(3) Any habitual traffic offender designated under Section 193.7 of the Penal Code or under subdivision (b) of Section 23170, subdivision (b) of Section 23175, subdivision (b) of Section 23175.5, or subdivision (d) of Section 23190 who is convicted of a violation of Section 14601.2 shall be punished by imprisonment in the county jail for 180 days and by a fine of two thousand dollars ($2,000). The penalty in this paragraph shall be consecutive to that imposed for the violation of any other law.

SEC. 5. Section 23159 of the Vehicle Code is amended to read:

23159. (a) If any person is convicted of a violation of Section 23152 or 23153, and at the time of the arrest leading to that conviction that person willfully refused a peace officer's request to submit to, or willfully failed to complete, the chemical test or tests pursuant to Section 23157, the court shall impose the following penalties:

(1) If the person is convicted of a first violation of Section 23152, notwithstanding any other provision of subdivision (a) of Section 23161, the terms and conditions of probation shall include the conditions in paragraph (1) of subdivision (a) of Section 23161.

(2) If the person is convicted of a first violation of Section 23153, the punishment prescribed in this article shall be enhanced by an imprisonment of 48 continuous hours in the county jail, whether or not probation is granted and no part of which may be stayed, unless the person is sentenced to, and incarcerated in, the state prison and the execution of that sentence is not stayed.

(3) If the person is convicted of a second violation of Section 23152, punishable under Section 23165, or a second violation of Section 23153, punishable under Section 23185, the punishment prescribed in this article shall be enhanced by an imprisonment of 96 hours in the county jail, whether or not probation is granted and no part of which may be stayed, unless the person is sentenced to, and incarcerated in, the state prison and execution of that sentence is not stayed.

(4) If the person is convicted of a third violation of Section 23152, punishable under Section 23170, the punishment prescribed in this article shall be enhanced by an imprisonment of 10 days in the county jail, whether or not probation is granted and no part of which may be stayed.

(5) If the person is convicted of a fourth or subsequent violation of Section 23152, punishable under Section 23175 or 23175.5, the punishment prescribed in this article shall be enhanced by imprisonment of 18 days in the county jail, whether or not probation is granted and no part of which may be stayed.

(b) The willful refusal or failure to complete the chemical test required pursuant to Section 23157 shall be pled and proven.

SEC. 6. Section 23175.5 is added to the Vehicle Code, to read:

23175.5. (a) A person is guilty of a public offense punishable by imprisonment in the state prison or by imprisonment for not more than one year in the county jail and by a fine of not less than three hundred ninety dollars ($390) nor more than one thousand dollars ($1,000) if that person is convicted of a violation of Section 23152 or 23153, and the offense occurred within 10 years of any of the following:

(1) A prior violation of Section 23152 that was punished as a felony under Section 23175 or this section, or both.

(2) A prior violation of Section 23153 that was punished as a felony.

(3) A prior violation that was punished as a felony under Section 191.5 of the Penal Code or paragraph (1) or (3) of subdivision (c) of Section 192 of the Penal Code. The person's privilege to operate a motor vehicle shall be revoked by the Department of Motor Vehicles under paragraph (7) of subdivision (a) of Section 13352.

(b) Any person convicted of a violation of Section 23152 that is punishable under this section shall be designated an habitual traffic offender for a period of three years, subsequent to the conviction.

The person shall be advised of this designation under subdivision (b) of Section 13350.

SEC. 7. Section 23206.5 of the Vehicle Code is amended to read:

23206.5. (a) If any person is convicted of a violation of Section 23152 or 23153 and the offense was a second or subsequent offense punishable under Section 23165, 23170, 23175, 23175.5, 23185, or 23190, the court shall require that any term of imprisonment that is imposed include at least one period of not less than 48 consecutive hours of imprisonment or, in the alternative and notwithstanding Section 4024.2 of the Penal Code, that the person serve not less than 10 days of community service.

(b) Notwithstanding any other provision of law, except Section 2900.5 of the Penal Code, unless the court expressly finds in the circumstances that the punishment inflicted would be cruel or unusual punishment prohibited by Section 17 of Article I of the California Constitution, no court or person to whom a person is remanded for execution of sentence shall release, or permit the release of, a person from the requirements of subdivision (a), including, but not limited to, any work-release program, weekend service of sentence program, diversion or treatment program, or otherwise.

(c) For purposes of this section, "imprisonment" means confinement in a jail, in a minimum security facility, or in an inpatient rehabilitation facility, as provided in Part 1309 (commencing with Section 1309.1) of Title 23 of the Code of Federal Regulations.

(d) This section shall become operative only if, and upon the date of the certification by, the Department of Motor Vehicles to the Secretary of State that California has submitted a completed application for federal Title 408 grant programs funds pursuant to that Part 1309.

SEC. 8. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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

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# CHAPTER 902

An act to amend Sections 679.02 and 3043.2 of, and to add Sections 1191.16 and 3043.25 to, the Penal Code, relating to victim's rights.

[Approved by Governor October 12, 1997. Filed with Secretary of State October 12, 1997.]

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

SECTION 1. Section 679.02 of the Penal Code is amended to read:

679.02. (a) The following are hereby established as the statutory rights of victims and witnesses of crimes:

(1) To be notified as soon as feasible that a court proceeding to which he or she has been subpoenaed as a witness will not proceed as scheduled, provided the prosecuting attorney determines that the witness' attendance is not required.

(2) Upon request of the victim or a witness, to be informed by the prosecuting attorney of the final disposition of the case, as provided by Section 11116.10.

(3) For the victim, the victim's parents or guardian if the victim is a minor, or the next of kin of the victim if the victim has died, to be notified of all sentencing proceedings, and of the right to appear, to reasonably express his or her views, have those views preserved by audio or video means as provided in Section 1191.16, and to have the court consider his or her statements, as provided by Sections 1191.1 and 1191.15.

(4) For the victim, the victim's parents or guardian if the victim is a minor, or the next of kin of the victim if the victim has died, to be notified of all juvenile disposition hearings in which the alleged act would have been a felony if committed by an adult, and of the right to attend and to express his or her views, as provided by Section 656.2 of the Welfare and Institutions Code.

(5) Upon request by the victim or the next of kin of the victim if the victim has died, to be notified of any parole eligibility hearing and of the right to appear, either personally as provided by Section 3043 of this code, or by other means as provided by Sections 3043.2 and 3043.25 of this code, to reasonably express his or her views, and to have his or her statements considered, as provided by Section 3043 of this code and by Section 1767 of the Welfare and Institutions Code.

(6) Upon request by the victim or the next of kin of the victim if the crime was a homicide, to be notified of an inmate's placement in a reentry or work furlough program, or notified of the inmate's escape as provided by Section 11155.

(7) To be notified that he or she may be entitled to witness fees and mileage, as provided by Section 1329.1.

(8) For the victim, to be provided with information concerning the victim's right to civil recovery and the opportunity to be

compensated from the Restitution Fund pursuant to Chapter 5 (commencing with Section 13959) of Part 4 of Division 3 of Title 2 of the Government Code and Section 1191.2 of this code.

(9) To the expeditious return of his or her property which has allegedly been stolen or embezzled, when it is no longer needed as evidence, as provided by Chapter 12 (commencing with Section 1407) and Chapter 13 (commencing with Section 1417) of Title 10 of Part 2.

(10) To an expeditious disposition of the criminal action.

(11) To be notified, if applicable, in accordance with Sections 679.03 and 3058.8 if the defendant is to be placed on parole.

(12) To be notified by the district attorney's office where the case involves a violent felony, as defined in subdivision (c) of Section 667.5, or in the event of a homicide, the victim's next of kin, of a pending pretrial disposition before a change of plea is entered before a judge.

(A) A victim of any felony may request to be notified, by the district attorney's office, of a pretrial disposition.

(B) If it is not possible to notify the victim of the pretrial disposition before the change of plea is entered, the district attorney's office or the county probation department shall notify the victim as soon as possible.

(C) The victim may be notified by any reasonable means available.

Nothing in this paragraph is intended to affect the right of the people and the defendant to an expeditious disposition as provided in Section 1050.

(b) The rights set forth in subdivision (a) shall be set forth in the information and educational materials prepared pursuant to Section 13897.1. The information and educational materials shall be distributed to local law enforcement agencies and local victims' programs by the Victims' Legal Resource Center established pursuant to Chapter 11 (commencing with Section 13897) of Title 6 of Part 4.

(c) Local law enforcement agencies shall make available copies of the materials described in subdivision (b) to victims and witnesses.

(d) Nothing in this section is intended to affect the rights and services provided to victims and witnesses by the local assistance centers for victims and witnesses.

SEC. 2. Section 1191.16 is added to the Penal Code, to read:

1191.16. The victim of any crime, or the parents or guardians of the victim if the victim is a minor, or the next of kin of the victim if the victim has died, who choose to exercise their rights with respect to sentencing proceedings as described in Section 1191.1 may, in any case where the defendant is subject to an indeterminate term of imprisonment, have their statements simultaneously recorded and preserved by means of videotape, videodisc, or any other means of preserving audio and video, if they notify the prosecutor in advance

of the sentencing hearing and the prosecutor reasonably is able to provide the means to record and preserve the statement. If a video and audio record is developed, that record shall be maintained and preserved by the prosecution and used in accordance with the regulations of the Board of Prison Terms at any hearing to review parole suitability or the setting of a parole date.

SEC. 3. Section 3043.2 of the Penal Code is amended to read:

3043.2. (a) In lieu of personal appearance at any hearing to review the parole suitability or the setting of a parole date, the Board of Prison Terms may permit the victim, his or her next of kin, or immediate family members to file with the board a written, audiotaped, or videotaped statement expressing his or her views concerning the crime and the person responsible. The statement may be personal messages from the person to the board made at any time or may be a statement made pursuant to Section 1191.16, or a combination of both. The board shall consider any statement filed prior to reaching a decision, and shall include in its report a statement of whether the person would pose a threat to public safety if released on parole.

(b) Whenever an audio or video statement is filed with the board, a written transcript of the tape shall also be provided by the person filing the statement.

(c) Nothing in this section shall be construed to prohibit the prosecutor from representing to the board the views of the victim, his or her immediate family members, or next of kin.

(d) In the event the board permits an audio or video statement to be filed, the board shall not be responsible for providing any equipment or resources needed to assist the victim in preparing the statement.

SEC. 4. Section 3043.25 is added to the Penal Code, to read:

3043.25. Any victim, next of kin, or members of the victim's immediate family who have the right to appear at a hearing to review parole suitability or the setting of a parole date, either personally as provided in Section 3043, or by a written, audiotaped, or videotaped statement as provided in Section 3043.2, and any prosecutor who has the right to appear pursuant to Section 3041.7, shall also have the right to appear by means of videoconferencing, if videoconferencing is available at the hearing site. For the purposes of this section, "videoconferencing" means the live transmission of audio and video signals by any means from one physical location to another.

SEC. 5. Funding for implementation of this act shall be contingent upon the appropriation of funds for this purpose in the Budget Act.

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## CHAPTER 903

An act to amend Section 664 of the Welfare and Institutions Code, relating to youth.

[Approved by Governor October 12, 1997. Filed with Secretary of State October 12, 1997.]

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

SECTION 1. Section 664 of the Welfare and Institutions Code is amended to read:

664. (a) The district attorney or the attorney of record for the minor may issue, and upon request of the probation officer, the minor, or the minor's parent, guardian, or custodian, the court or the clerk of the court shall issue, and, on the court's own motion, the court may issue, subpoenas requiring attendance and testimony of witnesses and production of papers at any hearing regarding a minor who is alleged or determined by the court to be a person described by Section 601 or 602.

(b) When a person attends a juvenile court hearing as a witness upon a subpoena, in its discretion, the court may by an order on its minutes, direct the county auditor to draw his or her warrant upon the county treasurer in favor of the witness for witness fees in the amount and manner prescribed by Section 68093 of the Government Code. The fees are county charges.

(c) (1) The court shall use whatever means are appropriate, including, but not limited to, the issuance of a subpoena, if appropriate, to require the presence of the parent, parents, or guardian of a child at the detention, jurisdictional, and disposition hearings regarding a minor who is alleged or determined by the court to be a person described by Section 601 or 602 unless the court determines that it would be in the best interests of the child for the parent to not attend or the court finds that it would impose a hardship upon the parent or guardian to attend. Any parent or guardian who does not attend a hearing pursuant to a subpoena under this section is guilty of contempt unless the court excuses, for good cause, the parent or guardian from attending the hearing or the court finds that the parent or guardian has a satisfactory excuse for not attending.

(2) For purposes of this subdivision, the term "parent" includes a foster parent.

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## CHAPTER 904

An act to amend Section 5164 of the Public Resources Code, relating to parks and recreation.

[Approved by Governor October 12, 1997. Filed with Secretary of State October 12, 1997.]

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

SECTION 1. Section 5164 of the Public Resources Code is amended to read:

5164. (a) A county or city or city and county or special district shall not hire a person for employment, or hire a volunteer to perform services, at a county or city or city and county or special district operated park, playground, recreational center, or beach used for recreational purposes, in a position having supervisory or disciplinary authority over any minor, if the person has been convicted of any offense specified in paragraph (1) of subdivision (g) of Section 11105.3 of the Penal Code, or any offense specified in paragraph (3) of subdivision (g) of Section 11105.3 of the Penal Code. However, this section shall not apply to a misdemeanor conviction under paragraph (3) of subdivision (g) of Section 11105.3 of the Penal Code unless the person has a total of three or more misdemeanor or felony convictions specified in Section 11105.3 of the Penal Code within the immediately preceding 10-year period.

(b) (1) To give effect to this section, a county or city or city and county or special district may screen, pursuant to Section 11105.3 of the Penal Code, any such prospective employee or volunteer, having supervisory or disciplinary authority over any minor, for the person's criminal background.

(2) Any local agency requests for Department of Justice records pursuant to this subdivision shall include the prospective employee's or volunteer's fingerprints, which may be taken by the local agency, and any other data specified by the Department of Justice. The request shall be made on a form approved by the Department of Justice. No fee shall be charged to the local agency for requesting the records of a prospective volunteer pursuant to this subdivision.

SEC. 2. If Senate Bill 720 of the 1997–98 Regular Session, which would appropriate money to fund local programs that enhance the ability of local law enforcement to provide fingerprint identification, is enacted and becomes effective on January 1, 1998, any fees that are charged a local agency pursuant to Section 9250.19 of the Vehicle Code for requesting the records of a prospective volunteer who will perform services at a county or city or city and county or special district operated park, playground, recreational center, or beach used for recreational purposes, in a position having supervisory or disciplinary authority over any minor, shall be waived.

# CHAPTER 905

An act to add Chapter 7.1 (commencing with Section 25620) to Division 15 of, and to add and repeal Section 25620.9 of, the Public Resources Code, and to amend Section 371 of, to add Sections 383.5 and 384 to, and to add Article 5 (commencing with Section 445) to Chapter 2.5 of Part 1 of Division 1 of, and to add and repeal Section 380 of, the Public Utilities Code, relating to energy resources, and making an appropriation therefor.

[Approved by Governor October 12, 1997. Filed with Secretary of State October 12, 1997.]

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

SECTION 1. (a) The Legislature hereby finds and declares that the purpose of revenues collected by electrical corporations pursuant to paragraph (3) of subdivision (c) of Section 381 of the Public Utilities Code is to assist in-state operation and development of existing and new and emerging renewable resource technologies, and to secure for the state the environmental, economic, and reliability benefits that development and continued operation of those new and emerging technology resource facilities will provide. The transition period for restructuring California's electrical services industry, as generally provided for in Chapter 854 of the Statutes of 1996, poses a unique set of circumstances for these particular public goods programs, making it necessary, therefore, to provide legislative guidance for the reasonable allocation of revenues collected pursuant to Section 381 of the Public Utilities Code.

(b) (1) The Legislature further finds and declares that, to accomplish the financial transactions intended by Chapter 854 with respect to the in-state operation and development of existing and new and emerging renewable resource technologies, it is necessary for the state to act in a fiduciary capacity for the disbursement of revenues collected by electrical corporations for those purposes.

(2) It is the intent of the Legislature that state agencies acting in such a fiduciary capacity in the disbursement of revenues collected by electrical corporations specifically for renewable resource technologies shall not exercise administrative discretion in the disbursement of those revenues that is inconsistent with the allocation mechanisms authorized by this act or the authority under which those revenues are otherwise collected.

SEC. 2. Chapter 7.1 (commencing with Section 25620) is added to Division 15 of the Public Resources Code, to read:

## CHAPTER 7.1. PUBLIC INTEREST ENERGY RESEARCH, DEMONSTRATION, AND DEVELOPMENT PROGRAM

25620. The Legislature hereby finds and declares all of the following:

(a) It is in the best interests of the people of this state that the quality of life of its citizens be improved by providing environmentally sound, safe, reliable, and affordable energy services and products.

(b) To improve the quality of life of this state's citizens, it is proper and appropriate for the state to undertake public interest energy research, development, and demonstration projects that are not adequately provided for by competitive and regulated energy markets.

(c) Public interest energy research, demonstration, and development projects should advance energy science or technologies of value to California citizens and should be consistent with the policies of Chapter 854 of the Statutes of 1996.

(d) The commission should use its adopted "Strategic Plan for Implementing the Research, Demonstration, and Development Provisions of AB 1890" to ensure compliance with policies and provisions of Chapter 854 of the Statutes of 1996 in the administration of public interest energy research, demonstration, and development programs.

25620.1. (a) The commission shall develop, implement, and administer the Public Interest Research, Development, and Demonstration Program, which is hereby created. The program shall include a full range of research, development, and demonstration activities that, as determined by the commission, are not adequately provided for by competitive and regulated markets.

(b) The program shall consist of a balanced portfolio that addresses California's energy and environmental needs, technology opportunities, and system reliability. To achieve balance, the commission shall actively solicit applications for the underrepresented subject areas of end-use energy efficiency, renewable technologies, and environmental enhancements. The portfolio shall include the relevant core subject areas of environmental enhancements, end-use efficiency, environmentally-preferred advanced generation technologies, renewable technologies, and other strategic energy research, including public interest system reliability research, demonstration, and development not adequately addressed by the Public Utilities Commission. The portfolio shall be reviewed annually by the commission through a public process. That annual review process shall consider technology status, development barriers, and expected benefits.

(c) The term "award," as used in this chapter, may include, but is not limited to, contracts, grants, loans, and other financial

agreements designed to fund public interest research, demonstration, and development projects or programs.

25620.2. (a) The commission shall administer the program in a manner that is consistent with the purposes of Chapter 854 of the Statutes of 1996, and shall ensure that the program meets all of the following criteria:

(1) Demonstrates a balance of benefits to all sectors that contribute to the funding under Section 381 of the Public Utilities Code.

(2) Addresses key technical and scientific barriers.

(3) Demonstrates a balance between short-term, mid-term, and long-term potential.

(4) Ensures that research currently, previously, or about to be undertaken by research organizations is not unnecessarily duplicated.

(b) To ensure the efficient implementation and administration of the program, the commission shall do both of the following:

(1) Develop procedures for the solicitation of award applications for project or program funding, and to ensure efficient program management.

(2) Evaluate and select programs and projects, based on merit, that will be funded under the program.

(c) To ensure the success of electric industry restructuring in the transition to a new market structure and to implement the program, the commission shall adopt regulations, as defined in subdivision (g) of Section 11342 of the Government Code, in accordance with the following procedures:

(1) Prepare a preliminary text of the proposed regulation and provide a copy of the preliminary text to any person requesting a copy.

(2) Provide public notice of the proposed regulation to any person who has requested notice of the regulations prepared by the commission. The notice shall contain all of the following:

(A) A clear overview explaining the proposed regulation.

(B) Instructions on how to obtain a copy of the proposed regulations.

(C) A statement that if a public hearing is not scheduled for the purpose of reviewing a proposed regulation, any person may request, not later than 15 days prior to the close of the written comment period, a public hearing conducted in accordance with the procedures set forth in Section 11346.8 of the Government Code.

(D) A deadline for the submission of written comments.

(3) Accept written public comments for 30 calendar days after providing the notice required in paragraph (2).

(4) Certify that all written comments were read and considered by the commission.

(5) Place all written comments in a record that includes copies of any written factual support used in developing the proposed

regulation, including written reports and copies of any transcripts or minutes in connection with any public hearings on the adoption of the regulation. The record shall be open to public inspection and available to the courts.

(6) Provide public notice of any substantial revision of the proposed regulation at least 15 days prior to the expiration of the deadline for public comments and comment period using the procedures provided in paragraph (2).

(7) Conduct public hearings, if a hearing is requested by an interested party, that shall be conducted in accordance with the procedures set forth in Section 11346.8 of the Government Code.

(8) Adopt any proposed regulation at a regularly scheduled and noticed meeting of the commission. The regulation shall become effective immediately unless otherwise provided by the commission.

(9) Publish any adopted regulation in a manner that makes copies of the regulation easily available to the public. Any adopted regulation shall also be made available on the Internet. The commission shall transmit a copy of an adopted regulation to the Office of Administrative Law for publication, or, if the commission determines that printing the regulation is impractical, an appropriate reference as to where a copy of the regulation may be obtained.

(10) Notwithstanding any other provision of law, this subdivision provides an interim exception from the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code for regulations required to implement Sections 25621 and 25622 that are adopted under the procedures specified in this subdivision.

(11) This subdivision shall become inoperative on January 1, 2000, unless a later enacted statute deletes or extends that date. However, after January 1, 2000, the commission shall not be required to repeat any procedural step in adopting a regulation that has been completed before January 1, 2000, using the procedures specified in this subdivision.

25620.3. The commission may, consistent with the requirements of Section 25620.2, provide awards to any individual or entity proposing a public interest research, demonstration, and development project or program.

25620.4. (a) To the extent that intellectual property is developed under this chapter, an equitable share of rights in the intellectual property or in the benefits derived therefrom shall accrue to the State of California.

(b) The commission may determine what share, if any, of the intellectual property, or the benefits derived therefrom, shall accrue to the state. The commission may negotiate sharing mechanisms for intellectual property or benefits with award recipients.

25620.5. (a) The commission may solicit applications for awards, using a sealed competitive bid, competitive negotiation process, multiparty agreement, single source, or sole source method.

(b) A sealed bid method may be used when goods and services to be acquired can be described with sufficient specificity so that bids can be evaluated against specifications and criteria set forth in the solicitation for bids.

(c) The commission may use a competitive negotiation process in any of the following circumstances:

(1) Whenever the desired contract is not for a fixed price.

(2) Whenever project specifications cannot be drafted in sufficient detail so as to be applicable to a sealed competitive bid.

(3) Whenever there is a need to compare the different price, quality, and contractual factors of the bids submitted.

(4) Whenever there is a need to afford bidders an opportunity to revise their proposals.

(5) Whenever oral or written discussions with bidders concerning the technical and price aspects of their proposals will provide better projects to the state.

(6) Whenever the price of the contract is not the determining factor.

(d) The commission may establish multiparty and interagency agreements with other entities to advance a defined research, development, and demonstration project purposes. The commission shall be a party to those agreements and shall share in the roles, responsibilities, risks, investments, and results of the agreement.

(e) The commission may choose from among two or more business entities capable of supplying or providing goods or services that meet a specified need of the commission. The cost to the state shall be reasonable and the commission shall only enter into a single source contract with a particular entity if the commission determines that it is in the state's best interests.

(f) The commission, in accordance with subdivision (g), may select projects on a sole source basis when the cost to the state is reasonable and when, in consultation with the Department of General Services, the commission makes any of the following determinations:

(1) The proposal was unsolicited and meets the evaluation criteria of this chapter.

(2) The expertise, service, or product is unique.

(3) The urgency of the need for the information or deliverable is such that a competitive solicitation would frustrate timely performance.

(4) The contract funds the next phase of a multiphased proposal and the existing agreement is being satisfactorily performed.

(5) When it is determined by the commission to be in the best interests of the state.

(g) The commission shall not utilize a sole source basis for a project pursuant to subdivision (f), unless both of the following conditions are met:

(1) The commission, at least 30 days prior to taking an action pursuant to subdivision (f), notifies the Joint Legislative Budget Committee, in writing of its intent to take the proposed action.

(2) The Joint Legislative Budget Committee either approves or fails to disapprove the proposed action within 30 days from the date of notification required by paragraph (1).

(h) The commission shall submit quarterly reports to the Legislative Analyst and to the appropriate fiscal and policy committees of the Legislature that review bills relating to energy and public utilities. The reports shall contain an evaluation of the progress and status of the implementation of this section.

(i) The provisions of this section are severable. If any provision of this section or its application is held to be invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

25620.6. The commission, in consultation with the Department of General Services, may purchase insurance coverage necessary to implement an award. Funding for the purchase of insurance may be made from money in the Public Interest Research, Development, and Demonstration Fund created pursuant to Section 384 of the Public Utilities Code.

25620.7. The commission may contract for, or through interagency agreement obtain, technical or administrative services support to reduce the overhead and administrative costs of implementing the program. Funding for this purpose shall be made from money in the Public Interest Research, Development, and Demonstration Fund.

25620.8. The commission shall prepare and submit to the Legislature an annual report on awards made pursuant to this chapter. The report shall include information on the names of award recipients, the amount of awards, and the types of projects funded, an evaluation of the success of any funded projects, and any recommendations for improvements in the program. The commission shall establish procedures for protecting confidential or proprietary information and shall consult with all interested parties in the preparation of the annual report.

25620.9. (a) Not later than January 1, 1999, the commission shall designate a panel of independent experts with special expertise in public interest research, development, and demonstration programs. The panel shall conduct a comprehensive evaluation of the program established pursuant to this chapter. The evaluation shall include a review of the public value of programs established pursuant to this chapter, and shall evaluate factors including, but not limited to, the monetary and nonmonetary benefits to public health and the environment of those programs, and the benefits of those programs

in providing funds for technology development that would otherwise not be funded.

(b) Not later than March 31, 2000, the panel designated pursuant to subdivision (a) shall submit a preliminary report to the Governor and to the Legislature on its findings and recommendations on the implementation of the program established pursuant to this chapter. The panel, not later than March 31, 2001, shall submit a final report to the Governor and to the Legislature, including any additional findings and recommendations regarding implementation of the program.

(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. Section 371 of the Public Utilities Code is amended to read:

371. (a) Except as provided in Sections 372 and 374, the uneconomic costs provided in Sections 367, 368, 375, and 376 shall be applied to each customer based on the amount of electricity purchased by the customer from an electrical corporation or alternate supplier of electricity, subject to changes in usage occurring in the normal course of business.

(b) Changes in usage occurring in the normal course of business are those resulting from changes in business cycles, termination of operations, departure from the utility service territory, weather, reduced production, modifications to production equipment or operations, changes in production or manufacturing processes, fuel switching, including installation of fuel cells pending a contrary determination by the California Energy Resources Conservation and Development Commission in Section 383, enhancement or increased efficiency of equipment or performance of existing self-cogeneration equipment, replacement of existing cogeneration equipment with new power generation equipment of similar size as described in paragraph (1) of subdivision (a) of Section 372, installation of demand-side management equipment or facilities, energy conservation efforts, or other similar factors.

(c) Nothing in this section shall be interpreted to exempt or alter the obligation of a customer to comply with Chapter 5 (commencing with Section 119075) of Part 15 of Division 104 of the Health and Safety Code. Nothing in this section shall be construed as a limitation on the ability of residential customers to alter their pattern of electricity purchases by activities on the customer side of the meter.

SEC. 4. Section 383.5 is added to the Public Utilities Code, to read:

383.5. (a) As used in this section, the following terms have the following meaning:

(1) “In-state renewable electricity generation technology” means biomass, solar thermal, photovoltaic, wind, geothermal, small hydropower of 30 megawatts or less, waste tire, digester gas, landfill gas, and municipal solid waste generation technologies, as described

in the report, defined in paragraph (2), including any additions or enhancements thereto, that are produced in facilities located in this state and placed in operation after September 26, 1996, or that were operational prior to that date, and that are also certified under Section 292.2904 of Title 18 of the Code of Federal Regulations as a qualifying small power production facility either located in California, or that began selling electricity to a California electrical corporation prior to September 26, 1996, under a Standard Offer Power Purchase Agreement authorized by the California Public Utilities Commission.

(2) "Report" means the Policy Report on AB 1890 Renewables Funding (March 1997, Publication Number P500-97-002) submitted to the Legislature by the State Energy Resources Conservation and Development Commission.

(b) (1) Forty-five percent of the money collected pursuant to paragraph (3) of subdivision (c) of Section 381, up to two hundred forty-three million dollars ($243,000,000), shall be used for programs that are designed to improve the competitiveness of existing in-state renewable electricity generation technology facilities, and to secure for the state the environmental, economic, and reliability benefits that continued operation of those facilities will provide.

(2) Any funds used to support in-state renewable electricity generation technology facilities pursuant to this subdivision shall be expended in accordance with the provisions of the report, subject to all of the following requirements:

(A) Funding for existing renewable electricity generation technologies shall be grouped into three technology tiers, as follows:

(i) Twenty-five percent of the money, up to one hundred thirty-five million dollars ($135,000,000), shall be used to fund first tier technologies, including biomass, solar thermal, and whole waste tire technologies.

(ii) Thirteen percent of the money, up to seventy million two hundred thousand dollars ($70,200,000) shall be used to fund second tier wind technologies.

(iii) Seven percent of the money, up to thirty-seven million eight hundred thousand dollars ($37,800,000), shall be used to fund third tier technologies, including geothermal, small hydropower, digester gas, landfill gas, and municipal solid waste technologies.

(B) The State Energy Resources Conservation and Development Commission shall establish a cents per kilowatthour production incentive, not to exceed the payment caps per kilowatthour established in the report representing the difference between target prices and the market clearing price for electricity, if sufficient funds are available. If there are insufficient funds in any payment period to pay either the difference between the target and market price or the payment caps, production incentives shall be based on the amount determined by dividing available funds by eligible generation. The target price for Tier 1 technologies shall not be based

on less than four cents ($0.04) per kilowatthour. The market clearing price for electricity shall be the energy prices paid to nonutility power generators as provided in Section 390.

(C) Funding for each type of existing in-state renewable electricity generation technology shall be reduced each year during the period from January 1, 1998, to January 1, 2002, to encourage the development of increasingly competitive technologies.

(D) Facilities that are eligible to receive funding pursuant to this section shall be certified in accordance with the requirements set forth in the report and may not receive payments for any electricity produced that has any of the following characteristics:

(i) Is sold under a fixed energy price payment under a long-term contract with an existing in-state electrical corporation.

(ii) Derives from utility-owned facility that is receiving, or is eligible to receive, recovery of above-market facility costs through a competitive transition charge.

(iii) Is used onsite, sold to customers in a manner that excludes competitive transition charge payments, or is otherwise excluded from competitive transition charge payments.

(c) (1) Thirty percent of the money, up to one hundred sixty-two million dollars ($162,000,000), collected pursuant to paragraph (3) of subdivision (c) of Section 381, shall be used for programs designed to foster the development of new in-state renewable electricity generation technology facilities, and to secure for the state the environmental, economic, and reliability benefits that continued operation of those facilities will provide. Funds to further the purposes of this subdivision may be committed for multiple years.

(2) Any funds used for new in-state renewable electricity generation technology facilities pursuant to this subdivision shall be expended in accordance with the report, subject to all of the following requirements:

(A) Funds shall be allocated for proposed projects based on a competitive solicitation process whereby production incentives, not to exceed one and one-half cents ($.015) per kilowatthour, are awarded to the lowest bidders, provided that not more than 25 percent of the funds allocated pursuant to paragraph (1) may be awarded to a single project.

(B) Funds expended for production incentives shall be paid over a five-year period commencing on the date that a project begins electricity production, provided that the project shall be operational prior to January 1, 2002.

(C) The amount of funds expended shall be increased for each successive year during the period from January 1, 1998, to January 1, 2002, as fewer projects are expected to be funded during the first few years after funding becomes available.

(D) Facilities that are eligible to receive payments from the New Renewable Resources Account created pursuant to paragraph (2) of subdivision (a) of Section 445 of the Public Utilities Code shall be

certified as specified in the report and may not receive payments for any electricity produced that has any of the following characteristics:

(i) Is sold under an existing long-term contract with an existing in-state electrical corporation if the contract includes fixed energy or capacity payments.

(ii) Is used onsite and is sold to customers in a manner that excludes competitive transition charge payments, or is otherwise excluded from competitive transition charge payments.

(iii) Is produced by a facility that is owned by customer-owned electricity generating systems.

(E) Eligibility to compete for funds or to receive funds shall not be contingent upon the location or nature of the power purchaser.

(3) Repowered wind projects shall be eligible for funding under this subdivision if the new investment is at least 80 percent of the value of the repowered facility.

(d) (1) Ten percent of the money collected pursuant to paragraph (3) of subdivision (c) of Section 381, up to fifty-four million dollars ($54,000,000), shall be used for a multiyear, consumer-based program to foster the development of emerging renewable technologies in distributed generation applications. Funds to further the purposes of this subdivision may be committed for multiple years.

(2) Any funds used for emerging technologies pursuant to this subdivision shall be expended in accordance with all of the following requirements:

(A) Funding for emerging technologies shall be provided through a competitive, market-based process that shall be in place for a period of not less than four years, and shall be structured so as to allow eligible emerging technology manufacturers and suppliers to anticipate and plan for increased sale and installation volumes over the life of the program.

(B) The program shall provide monetary rebates, buydowns, or equivalent incentives, subject to subparagraph (C) of paragraph (2) of subdivision (d), to purchasers, lessees, lessors, or sellers of eligible electricity generating systems. Incentives shall benefit the end-use consumer of renewable generation by directly and exclusively reducing the cost of the eligible system, or the cost of electricity produced by the eligible system. Incentives shall be issued on the basis of the rated electrical capacity of the system measured in watts. The amount of the per-watt incentive shall decline over the term of the program, with a corresponding increase in the amount of total electrical capacity eligible for the incentive, thereby encouraging the manufacturers and suppliers of eligible systems to reduce system costs. Incentives shall be limited to a maximum percentage of the system price, as defined by the State Energy Resources Conservation and Development Commission, and the maximum incentive percentage shall decline over the term of the program, as shall the

per-watt incentive, in amounts to be determined by the State Energy Resources Conservation and Development Commission.

(C) Eligible distributed emerging technologies are photovoltaic, solar thermal electric, fuel cell technologies that utilize renewable fuels, and wind turbines of not more than ten kilowatts rated electrical capacity per customer site, provided that the technologies meet the emerging technology eligibility criteria contained in the report prepared by State Energy Resources Conservation and Development Commission. Eligible electricity generating systems are intended primarily to offset part or all of the consumer's own electrical energy demand, and shall not be owned by electrical corporations or publicly owned utilities, be located at a customer site that is not receiving distribution service from existing in-state electrical corporations. Not less than 60 percent of the available incentive funds shall be reserved for systems of 10 kilowatts rated electrical capacity or smaller, and not less than 15 percent of the funds shall be reserved for systems of 100 kilowatts rated electrical capacity or smaller. All eligible electricity generating system components shall be new and unused, and shall not have been previously placed in service in any other location or for any other application. Systems and their fuel resource shall be located on the premises of the end-use consumer of the electricity produced, and all eligible electricity generating systems shall be connected to the utility grid in California.

(D) The State Energy Resources Conservation and Development Commission shall also determine, in collaboration with industry and consumer interests, if a program provision limiting the amount of funds available for any single project is warranted, and determine how federal, state, or other funds or incentives not related to this section that are already available, or that may become available for eligible electricity generating systems, may impact the availability of funds allocated under this section, if at all. The emerging renewable technologies program shall be implemented not later than March 31, 1998, and incentives shall be available for eligible electricity generating systems that are placed in service after January 1, 1998, in accordance with the program provisions developed by the State Energy Resources Conservation and Development Commission. However, projects placed in service after January 1, 1998, and prior to September 1, 1998, shall not be subject to limits, if any, that may be determined by the commission, pursuant to this subparagraph.

(e) Fifteen percent of the money collected pursuant to paragraph (3) of subdivision (c) of Section 381, up to eighty-one million dollars ($81,000,000), shall be used for programs designed to provide customer credits for purchases of renewable energy produced by certified energy providers, to disseminate information regarding renewable energy technologies, to promote purchases of renewable energy, to help develop a consumer market for renewable energy, and to help develop a consumer market for renewable energy

technologies, as provided in the report, subject to the following requirements:

(1) (A) Fourteen percent of the money, up to seventy-five million six hundred thousand dollars ($75,600,000), shall be expended to provide customer credits for purchases of renewable energy produced by certified energy providers. Customer credits shall be awarded to California retail customers located in the service territory of an investor-owned utility that is subject to Section 381 who purchase qualifying renewable electric power through transactions traceable to specific generation sources by any auditable contract trail or equivalent that provides commercial verification that the electricity source claimed has been sold not more than once to a retail customer. Credits may be given without regard to whether the power supplier is also receiving funds under any other subdivision of this section.

(B) Credits awarded pursuant to this paragraph may be paid directly to energy marketers, aggregators, or generators if those persons or entities account for the credits on the recipient customer's utility bills. Credits shall not exceed one and one-half cents ($.015) per kilowatthour. Credits awarded to members of the combined class of customers, other than residential and small commercial customers, shall not exceed one thousand dollars ($1,000) per customer in 1998 and 1999. Thereafter, the State Energy Resources Conservation and Development Commission shall determine by January 10 of each year the average customer incentive rebate level paid over the preceding calendar year. In the event that the payments have remained at the one and one-half cents ($.015) per kilowatthour cap over the preceding calendar year, the one thousand dollars ($1,000) per customer cap shall be removed for that calendar year, except that in no event shall more than fifteen million dollars ($15,000,000) of the total customer incentive funds be awarded to members of the combined class of customers other than residential and small commercial customers.

(C) Funding for credits pursuant to this paragraph shall be increased for each successive year during the period from January 1, 1998, to January 1, 2002, to encourage the increasing use of those credits.

(D) The State Energy Resources Conservation and Development Commission shall develop interim criteria and procedures for the certification of energy providers and for the identification of energy purchasers who are eligible to receive funds pursuant to this paragraph through a process consistent with this paragraph. Such criteria and procedures shall apply only to funding eligibility and shall not extend to other renewable marketing claims.

(2) One percent of the money, up to five million four hundred thousand dollars ($5,400,000), shall be expended to promote renewable energy and to disseminate information on renewable energy technologies, including emerging renewable technologies,

and to help develop a consumer market for renewable energy and for small-scale emerging renewable energy technologies.

(f) (1) The State Energy Resources Conservation and Development Commission shall adopt guidelines governing the funding programs authorized under this section, at a publicly noticed meeting offering all interested parties an opportunity to comment. Substantive changes to the guidelines shall not be adopted without at least 10 days' written notice to the public. The public notice of meetings required by this paragraph shall not be less than 30 days. Notwithstanding any other provision of law, any guidelines adopted pursuant to this section shall be deemed to satisfy the requirements of Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2 of the Government Code.

(2) The State Energy Resources Conservation and Development Commission shall, in collaboration with eligible emerging technology industry stakeholders and consumer interests, complete the emerging technology program design, as outlined in subdivision (d), and implement its provisions.

(3) Awards made pursuant to this section are grants, subject to appeal to the State Energy Resources Conservation and Development Commission upon a showing that factors other than those described in the guidelines adopted by the State Energy Resources Conservation and Development Commission were applied in making the awards and payments. Any actions taken by an applicant to apply for, or become or remain eligible and certified to receive, payments or awards, including satisfying conditions specified by the State Energy Resources Conservation and Development Commission, shall not constitute the rendering of goods, services, or a direct benefit to the State Energy Resources Conservation and Development Commission.

(g) The State Energy Resources Conservation and Development Commission shall report to the Legislature on or before May 31, 2000, and on or before May 31 of every second year thereafter, regarding the results of the mechanisms funded pursuant to this section. Reports prepared pursuant to this section shall include a description of the allocation of funds among existing, new and emerging technologies; the allocation of funds among programs, including consumer-side incentives; and the need for the reallocation of money among those technologies. The reports shall also address the allocation of funds from interest on the accounts described in this section, money in the accounts described in subdivision (e) of Section 381, and money included in the accounts pursuant to Section 385. Notwithstanding paragraph (4) of subdivision (b) of Section 383 or subdivisions (b), (c), (d), and (e) of Section 383.5, money may be reallocated without further legislative action among existing, new, and emerging technologies and consumer-side programs in a manner consistent with the report.

SEC. 5. Section 384 is added to the Public Utilities Code, to read:

384. (a) Funds transferred to the State Energy Resources Conservation and Development Commission pursuant to this article for purposes of public interest research, development, and demonstration shall be transferred to the Public Interest Research, Development, and Demonstration Fund, which is hereby created in the State Treasury. The fund is a trust fund and shall contain money from all interest, repayments, disencumbrances, royalties, and any other proceeds appropriated, transferred, or otherwise received for purposes pertaining to public interest research, development, and demonstration. Any appropriations that are made from the fund shall have an encumbrance period of not longer than two years, and a liquidation period of not longer than four years.

(b) The State Energy Resources Conservation and Development Commission shall report annually to the appropriate budget committees of the Legislature on any encumbrances or liquidations that are outstanding at the time the commission's budget is submitted to the Legislature for review.

SEC. 6. Article 5 (commencing with Section 445) is added to Chapter 2.5 of Part 1 of Division 1 of the Public Utilities Code, to read:

### Article 5. Collection and Disposition of Fees for Renewable Energy Technologies

445. (a) The Renewable Resource Trust Fund is hereby created in the State Treasury.

(b) The following accounts are hereby created within the Renewable Resource Trust Fund:

(1) The Existing Renewable Resources Account.

(2) New Renewable Resources Account.

(3) Emerging Renewable Resources Account.

(4) Customer-Side Renewable Resource Purchases Account.

(c) The money in the fund may be expended for the state's administration of this article only upon appropriation by the Legislature in the annual Budget Act.

(d) Notwithstanding Section 383, that portion of revenues collected by electrical corporations for the benefit of in-state operation and development of existing and new and emerging renewable resource technologies, pursuant to paragraph (3) of subdivision (c) of Section 381, shall be transmitted to the State Energy Resources Conservation and Development Commission at least quarterly for deposit in the Renewable Resource Trust Fund. After setting aside in the fund money that may be needed for expenditures authorized by the annual Budget Act in accordance with subdivision (c), the Treasurer shall immediately deposit money received pursuant to this section into the accounts created pursuant to subdivision (b) in proportions designated by the State Energy Resources Conservation and Development Commission for the current calendar year. Notwithstanding Section 13340 of the

Government Code, the money in the fund and the accounts within the fund are hereby continuously appropriated to the State Energy Resources Conservation and Development Commission without regard to fiscal year for the purposes enumerated in Section 383.5.

(e) Upon notification by the State Energy Resources Conservation and Development Commission, the Controller shall pay all awards of the money in the accounts created pursuant to subdivision (c) for purposes of furthering the purposes of subdivision (c) of Section 383.5. The eligibility of each award shall be determined solely by the State Energy Resources Conservation and Development Commission based on the procedures it adopts under subdivision (f) of Section 383.5. Based on the eligibility of each award, the State Energy Resources Conservation and Development Commission shall also establish the need for a multiyear commitment to any particular award and so advise the Department of Finance. Eligible awards submitted by the State Energy Resources Conservation and Development Commission to the Controller shall be accompanied by information specifying the account from which payment should be made and the amount of each payment; a summary description of how payment of the award furthers the purposes of subdivision (c) of Section 383.5; and an accounting of future costs associated with any award or group of awards known to the State Energy Resources Conservation and Development Commission to represent a portion of a multiyear funding commitment.

(f) The State Energy Resources Conservation and Development Commission may transfer funds between accounts for cash-flow purposes, provided that the balance due each account is restored and the transfer does not adversely affect any of the accounts. The State Energy Resources Conservation and Development Commission shall examine the cash-flow in the respective accounts on an annual basis, and shall annually prepare and submit to the Legislature a report that describes the status of account transfers and repayments. Any other unallocated funds in any account shall remain in the respective account, and be available for the purposes of this section until December 31, 2001. After that date, money may be reallocated without further legislative action among existing, new, and emerging technologies and consumer-side programs in a manner consistent with the report described in subdivision (a) of Section 383.5.

(g) The State Energy Resources Conservation and Development Commission shall, on a quarterly basis, report to the Legislature on the implementation of this article. Those quarterly reports shall be submitted to the Legislature not more than 15 days after the close of each quarter and shall include information describing the awards submitted to the Treasurer pursuant to this article, the cumulative commitment of claims by account, the relative demand for funds by account, a forecast of future awards, and other matters the commission determines may be of importance to the Legislature.

(h) The Department of Finance, commencing March 1, 1999, shall conduct an independent audit of the Renewable Resource Trust Fund and its related accounts annually, and provide an audit report to the Legislature not later than March 1 of each year for which this article is operative. The Department of Finance's report shall include information regarding revenues, payment of awards, reserves held for future commitments, unencumbered cash balances, and other matters that the Director of Finance determines may be of importance to the Legislature.

SEC. 7. Section 380 is added to the Public Utilities Code, to read:

380. (a) To recognize the potential for microgeneration facilities to enhance reliability, power quality, and to provide other demonstrable benefits to the electric transmission or distribution system, an electrical corporation shall waive the otherwise applicable standby charge for each eligible customer.

(b) The cumulative load for which a waiver is authorized pursuant to this section shall not exceed 1 megawatt (1MW) total, and shall be located in the service territory of the electrical corporation.

(c) For purposes of this section, "electrical corporation" means an electrical corporation that, as of December 20, 1995, served at least four million customers, and that was also a gas corporation that served less than four thousand customers.

(d) For purposes of this section, "eligible customer" means a customer who has installed a microgeneration facility as defined in subdivision (f) of Section 331 on or after 90 days from the effective date of this section if that facility meets all of the following requirements:

(1) Is operated in parallel with the electrical corporation's transmission and distribution system.

(2) Is subject to the electrical corporation's standby tariff.

(3) Is in full compliance with the best available control technology (BACT).

(e) To implement the provisions of this section, an electrical corporation as defined in subdivision (b) shall, not later than 90 days from the effective date of this section, file with the commission appropriate revisions to the standby tariff schedule.

(f) Any waiver granted pursuant to this section shall expire on June 30, 2000.

(g) This section shall remain in effect until June 30, 2000, and as of that date is repealed, unless a later enacted statute, that is enacted before June 30, 2000, deletes or extends that date.

SEC. 8. (a) Notwithstanding paragraph (5) of subdivision (a) of Section 374 of the Public Utilities Code, the Lower Tule River Irrigation District may request an allocation from the State Energy Conservation and Development Commission pursuant to paragraph (1) of subdivision (a) of Section 374 of the Public Utilities Code if the district meets both of the following requirements:

(1) The district complies with the provisions of paragraph (1) of subdivision (a) of Section 374.

(2) The district receives no direct or indirect benefit pursuant to paragraph (3) of subdivision (a) of Section 374 of the Public Utilities Code.

(b) The commission shall, within 30 days from the effective date of this section, assess the viability of the request for an allocation that is authorized pursuant to this section in accordance with the requirements of paragraph (1) of subdivision (a) of Section 374, to determine if the request is consistent with the criteria previously applied by the commission in its decision of March 26, 1997, regarding the implementation of Section 374 of the Public Utilities Code (Docket No. 96-IRR-1890).

(c) For purposes of achieving an orderly, equitable phasein of all authorized allocations within the service territory of the electrical corporation in which the district is located, the commission, in accordance with subparagraph (B) of paragraph (1) of subdivision (a) of Section 374 of the Public Utilities Code, may make adjustments to the phasein of allocations that have been previously authorized.

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## CHAPTER 906

An act to amend Section 502.01 of, and to add and repeal Chapter 5.7 (commencing with Section 13848) of Title 6 of Part 4 of, the Penal Code, relating to crimes.

[Approved by Governor October 12, 1997. Filed with
Secretary of State October 12, 1997.]

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

SECTION 1. Section 502.01 of the Penal Code is amended to read:

502.01. (a) As used in this section:

(1) “Property subject to forfeiture” means any property of the defendant that is a telecommunications device as defined in subdivision (f) of Section 502.8, or a computer, computer system, or computer network, and any software or data residing thereon, if the telecommunications device, computer, computer system, or computer network was used in committing a violation of subdivision (c) of Section 502 or Section 502.7 or 502.8, or was used as a repository for the storage of software or data obtained in violation of those provisions. If the defendant is a minor, it also includes property of the parent or guardian of the defendant.

(2) “Sentencing court” means the court sentencing a person found guilty of violating subdivision (c) of Section 502 or Section 502.7 or 502.8, or, in the case of a minor found to be a person described

in Section 602 of the Welfare and Institutions Code because of a violation of those provisions, the juvenile court.

(3) “Interest” means any property interest in the property subject to forfeiture.

(4) “Security interest” means an interest that is a lien, mortgage, security interest, or interest under a conditional sales contract.

(5) “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.

(b) The sentencing court shall, upon petition by the prosecuting attorney, at any time following sentencing, or by agreement of all parties, at the time of sentencing, conduct a hearing to determine whether any property or property interest is subject to forfeiture under this section. At the forfeiture hearing, the prosecuting attorney shall have the burden of establishing, by a preponderance of the evidence, that the property or property interests are subject to forfeiture. The prosecuting attorney may retain seized property that may be subject to forfeiture until the sentencing hearing.

(c) Prior to the commencement of a forfeiture proceeding, the law enforcement agency seizing the property subject to forfeiture shall make an investigation as to any person other than the defendant who may have an interest in it. At least 30 days before the hearing to determine whether the property should be forfeited, the prosecuting agency shall send notice of the hearing to any person who may have an interest in the property that arose before the seizure.

A person claiming an interest in the property shall file a motion for the redemption of that interest at least 10 days before the hearing on forfeiture, and shall send a copy of the motion to the prosecuting agency and to the probation department.

If a motion to redeem an interest has been filed, the sentencing court shall hold a hearing to identify all persons who possess valid interests in the property. No person shall hold a valid interest in the property if, by a preponderance of the evidence, the prosecuting agency shows that the person knew or should have known that the property was being used in violation of subdivision (c) of Section 502 or Section 502.7 or 502.8, and that the person did not take reasonable steps to prevent that use, or if the interest is a security interest, the person knew or should have known at the time that the security interest was created that the property would be used for a violation.

(d) If the sentencing court finds that a person holds a valid interest in the property, the following provisions shall apply:

(1) The court shall determine the value of the property.

(2) The court shall determine the value of each valid interest in the property.

(3) If the value of the property is greater than the value of the interest, the holder of the interest shall be entitled to ownership of the property upon paying the court the difference between the value of the property and the value of the valid interest.

If the holder of the interest declines to pay the amount determined under paragraph (2), the court may order the property sold and designate the prosecutor or any other agency to sell the property. The designated agency shall be entitled to seize the property and the holder of the interest shall forward any documentation underlying the interest, including any ownership certificates for that property, to the designated agency. The designated agency shall sell the property and pay the owner of the interest the proceeds, up to the value of that interest.

(4) If the value of the property is less than the value of the interest, the designated agency shall sell the property and pay the owner of the interest the proceeds, up to the value of that interest.

(e) If the defendant was a minor at the time of the offense, this subdivision shall apply to property subject to forfeiture that is the property of the parent or guardian of the minor.

(1) The prosecuting agency shall notify the parent or guardian of the forfeiture hearing at least 30 days before the date set for the hearing.

(2) The computer or telecommunications device shall not be subject to forfeiture if the parent or guardian files a signed statement with the court at least 10 days before the date set for the hearing that the minor shall not have access to any computer or telecommunications device owned by the parent or guardian for two years after the date on which the minor is sentenced.

(3) If the minor is convicted of a violation of subdivision (c) of Section 502 or Section 502.7 or 502.8 within two years after the date on which the minor is sentenced, and the violation involves a computer or telecommunications device owned by the parent or guardian, the original property subject to forfeiture, and the property involved in the new offense, shall be subject to forfeiture notwithstanding paragraph (2).

(f) If the defendant is found to have the only valid interest in the property subject to forfeiture, it shall be distributed as follows:

(1) First, to the victim, if the victim elects to take the property as full or partial restitution for injury, victim expenditures, or compensatory damages, as defined in paragraph (1) of subdivision (e) of Section 502. If the victim elects to receive the property under this paragraph, the value of the property shall be determined by the court and that amount shall be credited against the restitution owed

by the defendant. The victim shall not be penalized for electing not to accept the forfeited property in lieu of full or partial restitution.

(2) Second, at the discretion of the court, to one or more of the following agencies or entities:

(A) The prosecuting agency.

(B) The public entity of which the prosecuting agency is a part.

(C) The public entity whose officers or employees conducted the investigation resulting in forfeiture.

(D) Other state and local public entities, including school districts.

(E) Nonprofit charitable organizations.

(g) If the property is to be sold, the court may designate the prosecuting agency or any other agency to sell the property at auction. The proceeds of the sale shall be distributed by the court as follows:

(1) To the bona fide or innocent purchaser or encumbrancer, conditional sales vendor, or mortgagee of the property up to the amount of his or her interest in the property, if the court orders a distribution to that person.

(2) The balance, if any, to be retained by the court, subject to the provisions for distribution under subdivision (f).

SEC. 2. Chapter 5.7 (commencing with Section 13848) is added to Title 6 of Part 4 of the Penal Code, to read:

## CHAPTER 5.7. HIGH TECHNOLOGY THEFT APPREHENSION AND PROSECUTION PROGRAM

13848. (a) It is the intent of the Legislature in enacting this chapter to provide local law enforcement and district attorneys with the tools necessary to successfully interdict the promulgation of high technology-related crime. According to the federal Law Enforcement Training Center, it is expected that states will see a tremendous growth in high technology crimes over the next few years as computers become more available and computer users more skilled in utilizing technology to commit these faceless crimes.

(b) Funds provided under this program are intended to ensure that law enforcement is equipped with the necessary personnel and equipment to successfully combat high technology crime which includes the following offenses:

(1) White-collar crime, such as check, automated teller machine, and credit card fraud, committed by means of electronic or computer-related media.

(2) Theft involving the electronic transfer of funds, unauthorized access to intellectual property, theft of software, and resale of stolen computer hardware.

(3) Remarking and counterfeiting of computer hardware and software.

(4) Theft and resale of telephone calling codes, theft of wireless communication service, and theft of cable television services by manipulation of the equipment used to receive those services.

(5) Laundering of illegal profits through computer networks and electronic banking transfers.

(6) Eavesdropping into or capture of e-mail systems, law enforcement dispatch systems, and wireless or wireline communication networks.

(7) Electronic terrorism through the creation of viruses, disabling of communication systems or power networks, unauthorized manipulation of data bases, or theft of funds committed by means of the penetration of electronic fund transfer systems.

(c) This program is also intended to provide support to law enforcement agencies by providing technical assistance to those agencies with respect to the seizure and analysis of computer systems used to commit crimes.

13848.2. (a) There is hereby established in the Office of Criminal Justice Planning a program of financial and technical assistance for law enforcement and district attorneys' offices, designated the High Technology Theft Apprehension and Prosecution Program. All funds appropriated to the Office of Criminal Justice Planning for the purposes of this chapter shall be administered and disbursed by the executive director of the office in consultation with the High Technology Steering Committee as established in Section 13848.6 and shall to the extent feasible be coordinated with federal funds and private grants or private donations that are made available for these purposes.

(b) The Executive Director of the Office of Criminal Justice Planning is authorized to allocate and award funds to counties in which high technology theft crime units are established in compliance with Section 13848.4.

(c) The allocation and award of funds under this chapter shall be made on application executed by the district attorney or county sheriff and approved by the board of supervisors for each county that is a participant of a high technology theft apprehension and prosecution unit.

(d) In identifying program areas that will be eligible for competitive application during the 1998–99 fiscal year for federal funding pursuant to the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs (Subchapter V (commencing with Section 3750) of Chapter 46 of the United States Code), the Office of Criminal Justice Planning shall include, to the extent possible, an emphasis on high technology crime by selecting funding areas that would further the use of federal funds to address high technology crime and facilitate the establishment of high technology multijurisdictional task forces.

(e) The Office of Criminal Justice Planning shall allocate any increase in federal funding pursuant to the Anti-Drug Abuse Act

(Public Law 100-690) for the 1998–99 fiscal year to those programs described in subdivision (d).

13848.4. (a) All funds appropriated to the Office of Criminal Justice Planning for the purposes of this chapter shall be deposited in the High Technology Theft Apprehension and Prosecution Program Trust Fund, which is hereby established. The fund shall be under the direction and control of the executive director. Moneys in the fund, upon appropriation by the Legislature, shall be expended to implement this chapter.

(b) Moneys in the High Technology Theft Apprehension and Prosecution Program Trust Fund shall be expended to fund programs to enhance the capacity of local law enforcement and prosecutors to deter, investigate, and prosecute high technology-related crimes. After deduction of the actual and necessary administrative costs referred to in subdivision (f), the High Technology Theft Apprehension and Prosecution Program Trust Fund shall be expended to fund programs to enhance the capacity of local law enforcement, state police, and local prosecutors to deter, investigate, and prosecute high technology-related crimes. Any funds distributed under this chapter shall be expended for the exclusive purpose of deterring, investigating, and prosecuting high technology-related crimes.

(c) Ten percent of the funds shall be used for developing and maintaining a statewide data base on high technology crime for use in developing and distributing intelligence information to participating law enforcement agencies. Any funds not expended in a fiscal year for these purposes shall be distributed to regional high technology theft task forces pursuant to subdivision (b).

(d) Any regional task force receiving funds under this section may elect to have the Department of Justice administer the regional task force program. The department may be reimbursed for any expenditures incurred for administering a regional task force from funds given to local law enforcement pursuant to subdivision (b).

(e) The Office of Criminal Justice Planning shall distribute funds in the High Technology Theft Apprehension and Prosecution Program Trust Fund to eligible agencies pursuant to subdivision (b) in consultation with the High Technology Steering Committee established pursuant to Section 13848.6.

(f) Administration of the overall program and the evaluation and monitoring of all grants made pursuant to this chapter shall be performed by the Office of Criminal Justice Planning, provided that funds expended for these functions shall not exceed 5 percent of the total amount made available under this chapter.

13848.6. (a) The High Technology Steering Committee is hereby established and shall be composed of one representative of the high technology manufacturing industry, one representative of the wireless phone industry, one representative of the multichannel video industry, one representative of the Internet industry, and one

member of the local law enforcement community for each area in which a regional task force will be situated. Each of these groups may appoint an appropriate representative of their office or organization to serve on the committee.

(b) The executive director, in consultation with the High Technology Steering Committee, shall develop specific guidelines and administrative procedures for the selection of projects to be funded by the High Technology Theft Apprehension and Prosecution Program, which guidelines shall include the following selection criteria:

(1) Each regional task force that seeks funds shall submit a written application to the committee setting forth in detail the proposed use of the funds.

(2) In order to qualify for the receipt of funds, each proposed regional task force submitting an application shall provide written evidence that the agency meets either of the following conditions:

(A) Has a regional task force devoted to the investigation and prosecution of high technology-related crimes that is comprised of local law enforcement, state law enforcement, and prosecutors, and has been in existence for at least one year prior to the application date.

(B) Has had on a regular basis during the three years immediately preceding the application date local law enforcement members who have actively investigated and prosecuted cases of suspected high technology theft.

(3) In order to qualify for funds, a regional task force shall be comprised of local law enforcement and prosecutors from at least two counties. The proposed task force shall also have at least one investigator assigned to it from a state law enforcement agency. Each task force shall be directed by a local steering committee composed of representatives of participating agencies and members of the local high technology industry.

(4) Additional criteria that shall be considered by the steering committee in awarding grant funds shall include, but not be limited to, the following:

(A) The number of high technology theft cases filed in the prior year.

(B) The number of high technology theft cases investigated in the prior year.

(C) The number of victims involved in the cases filed.

(D) The total aggregate monetary loss suffered by the victims, including individuals, associations, institutions, or corporations, as a result of the high technology theft cases filed, and those under active investigation by that task force.

(5) Each regional task force that has been awarded funds authorized under the High Technology Theft Apprehension and Prosecution Program during the previous grant-funding cycle, upon reapplication for funds to the committee in each successive year, shall

be required to submit a detailed accounting of funds received and expended in the prior year in addition to any information required by this section. The accounting shall include all of the following information:

(A) The amount of funds received and expended.

(B) The use to which those funds were put, including payment of salaries and expenses, purchase of equipment and supplies, and other expenditures by type.

(C) The number of filed complaints, investigations, arrests, and convictions that resulted from the expenditure of the funds.

(c) The committee shall annually review the effectiveness of the regional task forces created in deterring, investigating, and prosecuting high technology-related crimes based on information provided by the regional task forces in an annual report which shall detail the following:

(1) Facts based upon, but not limited to, the following:

(A) The number of high technology cases filed in the prior year.

(B) The number of high technology theft cases investigated in the prior year.

(C) The number of victims involved in the cases filed.

(D) The number of convictions obtained in the prior year.

(E) The total aggregate monetary loss suffered by the victims, including individuals, associations, institutions, corporations, and other relevant public entities, according to the number of cases filed, investigations, prosecutions, and convictions obtained.

(2) An accounting of funds received and expended in the prior year, which shall include all of the following:

(A) The amount of funds received and expended.

(B) The uses to which those funds were put, including payment of salaries and expenses, purchase of supplies, and other expenditures of funds.

(C) Any other relevant information requested.

13848.7. This chapter 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. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative

on the same date that the act takes effect pursuant to the California Constitution.

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## CHAPTER 907

An act to add Article 12 (commencing with Section 1915) to Chapter 1 of Division 2.5 of the Welfare and Institutions Code, relating to the Youth Authority, and making an appropriation therefor.

[Approved by Governor October 12, 1997. Filed with Secretary of State October 12, 1997.]

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

SECTION 1. Article 12 (commencing with Section 1915) is added to Chapter 1 of Division 2.5 of the Welfare and Institutions Code, to read:

### Article 12. Tattoo Removal

1915. (a) The Department of the Youth Authority shall purchase, after a competitive bidding process, two medical devices that utilize a laser to remove a tattoo from a person's skin. The department shall determine, in consultation with the Office of Criminal Justice Planning and, if Senate Bill 980 of the 1997–98 Regular Session is enacted, the Peace Process Task Force, the placement of the two medical devices pursuant to the following guidelines:

(1) One of the medical devices shall be located within Los Angeles County and the other shall be located within one of the following counties: Alameda, San Francisco, San Mateo, Santa Clara, and Santa Cruz.

(2) Possible sites may include: a licensed health facility, a licensed health clinic, an educational institution, or a probation office. The department may enter into an agreement with a licensed health facility to permit the health facility to use the medical device when it is not needed for tattoo removal pursuant to this section if the health facility provides tattoo removal services pursuant to this section free of charge.

(3) The medical devices shall remain the property of the state. However, they shall be used in conjunction with the tattoo removal program pursuant to this section for the functional life of the medical devices.

(b) Candidates for tattoo removal shall be screened by community groups recommended by the Office of Criminal Justice Planning and, if Senate Bill 980 of the 1997–98 Regular Session is

enacted, the Peace Process Task Force. A male candidate for tattoo removal shall have a tattoo on his lower arm, hand, neck, or head. A female candidate for tattoo removal shall have a tattoo that would be visible in a professional work environment. To be eligible for participation, the presence of the tattoo must be deemed to present either a threat to the personal safety of, or an obstacle to the employability of, the candidate. Priority shall be given to candidates who have a job offer that is contingent upon removal of the tattoo. At the discretion of the organization that screens a candidate, a candidate for this tattoo removal may be required to complete 20 hours of supervised public service work in order to participate in this program. Parental consent shall be required before the tattoo of any person under 18 years of age is removed.

(c) The Office of Criminal Justice Planning and, if Senate Bill 980 of the 1997–98 Regular Session is enacted, the Peace Process Task Force, shall solicit the pro bono services of physicians to participate in the program in order to increase the number of individuals served.

(d) It is the intent of the Legislature that at least 200 tattoo removals shall be performed at each of the two locations by January 1, 1999. By January 1, 2000, community groups that participate in this program shall report to the Department of the Youth Authority on the number of tattoo removals performed and the success of the program in assisting individuals join the work force. By March 1, 2000, the Department of the Youth Authority shall report these findings to the Legislature.

(e) It is the intent of the Legislature to expand these pilot programs as rapidly as possible to other areas of the state where there is gang violence and where there are active community-based gang violence prevention programs.

SEC. 2. There is hereby appropriated from the General Fund two hundred fifty thousand dollars ($250,000) to the Department of the Youth Authority for the purchase of two medical devices that utilize a laser to remove a tattoo from a person's skin and, with any funds that remain after the purchase, for the compensation of any qualified health care professionals who perform the tattoo removal with the purchased medical devices or who provide tattoo removal services in a cost-effective and proven program.

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## CHAPTER 908

An act to add and repeal Title 5.5 (commencing with Section 13760) of Part 4 of the Penal Code, relating to firearms, and making an appropriation therefor.

[Approved by Governor October 12, 1997. Filed with Secretary of State October 12, 1997.]

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

SECTION 1. Title 5.5 (commencing with Section 13760) is added to Part 4 of the Penal Code, to read:

## TITLE 5.5. ILLEGAL FIREARM CONFISCATION PILOT PROJECT

13760. (a) The Legislature finds and declares that the problem of violence caused by the use of firearms is becoming increasingly serious and that an increasing percentage of the incidents of firearm violence involve the use of illegal firearms.

(b) In establishing the pilot project pursuant to this title, it is the intent of the Legislature to support increased efforts by local law enforcement agencies to take illegal firearms off the streets.

(c) The Legislature further finds and declares that greater enforcement of existing laws against the unauthorized carrying of concealed weapons could reduce gun crime. It is, therefore, the intent of the Legislature to dedicate those law enforcement officers participating in the pilot project established pursuant to this title to gun detection and proactive patrol.

(d) It is the further intent of the Legislature that, in order to maximize patrol in "hotspot" areas, each officer participating in this pilot project be required to answer only high priority calls, defined as crimes in progress or life-threatening emergencies.

13761. There is hereby established a four-year pilot project in the County of Fresno and the County of Los Angeles to implement a local law enforcement program to confiscate illegal firearms.

13762. The Department of Justice shall determine geographic "hotspots," in consultation with local law enforcement agencies, on the basis of the following criteria:

(a) Number of drive-by shootings.

(b) Number of homicides.

(c) Number of rapes.

(d) Number of gun-related crimes.

The Department of Justice shall select one or more of these "hotspots" as the target of the pilot project established pursuant to this title.

13763. Any funds appropriated for the purpose of implementing the pilot project established pursuant to this title may be used for the following purposes:

(a) Overtime pay for peace officers.

(b) Hiring additional peace officers.

(c) Purchasing additional patrol units.

13764. By January 1, 2002, the Department of Justice, in consultation with the appropriate law enforcement agency in the participating county, shall prepare and submit to the Governor and the Legislature a report evaluating the success of the pilot project.

Criteria to be considered for determining the success of the pilot project shall include, but not be limited to, all of the following:

(a) Measurable increase in the number of illegal firearms retrieved within the hot-spot areas.

(b) Measurable decrease in the number of offenses committed using illegal firearms.

(c) Measurable decrease in the overall crime rate within the hot-spot areas as compared to crime statistics for the same area prior to the pilot project.

13765. This title shall remain in effect only until January 1, 2002, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2002, deletes or extends that date.

SEC. 2. The sum of one hundred ninety-eight thousand dollars ($198,000) is hereby appropriated from the General Fund to the Department of Justice for the 1997–98 fiscal year to implement the pilot project authorized by Title 5.5 (commencing with Section 13760) of Part 4 of the Penal Code, as added by Section 1 of this act.

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## CHAPTER 909

An act to add Section 601.5 to the Welfare and Institutions Code, relating to youths, and making an appropriation therefor.

[Approved by Governor October 12, 1997. Filed with Secretary of State October 12, 1997.]

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

SECTION 1. Section 601.5 is added to the Welfare and Institutions Code, to read:

601.5. (a) Any county may, upon adoption of a resolution by the board of supervisors, establish an At-Risk Youth Early Intervention Program designed to assess and serve families with children who have chronic behavioral problems that place the child at risk of becoming a ward of the juvenile court under Section 601 or 602. The purpose of the program is to provide a swift and local service response to youth behavior problems so that future involvement with the justice system may be avoided.

(b) The At-Risk Youth Early Intervention Program shall be designed and developed by a collaborative group which shall include representatives of the juvenile court, the probation department, the district attorney, the public defender, the county department of social services, the county education department, county health and mental health agencies, and local and community-based youth and family service providers.

(c) The At-Risk Youth Early Intervention Program shall include one or more neighborhood-based Youth Referral Centers for at-risk

youth and their families. These Youth Referral Centers shall be flexibly designed by each participating county to serve the local at-risk youth population with family assessments, onsite services, and referrals to offsite services. The operator of a Youth Referral Center may be a private nonprofit community-based agency or a public agency, or both. A center shall be staffed by youth and family service counselors who may be public or private employees and who shall be experienced in dealing with at-risk youth who are eligible for the program, as described in subdivision (d). The center may also be staffed as a collaborative service model involving onsite youth and family counselors, probation officers, school representatives, health and mental health practitioners, or other service providers. A center shall be located at one or more community sites that are generally accessible to at-risk youth and families and shall be open during daytime, evening, and weekend hours, as appropriate, based upon local service demand and resources available to the program.

(d) A minor may be referred to a Youth Referral Center by a parent or guardian, a law enforcement officer, a probation officer, a child welfare agency, or a school, or a minor may self-refer. A minor may be referred to the program if the minor is at least 10 years of age and is believed by the referring source to be at risk of justice system involvement due to chronic disobedience to parents, curfew violations, repeat truancy, incidents of running away from home, experimentation with drugs or alcohol, or other serious behavior problems. Whenever a minor is referred to the program, the Youth Referral Center shall make an initial determination as to whether the minor is engaged in a pattern of at-risk behavior likely to result in future justice system involvement, and, if satisfied that the minor is significantly at risk, the center shall initiate a family assessment. The family assessment shall identify the minor's behavioral problem, the family's circumstances and relationship to the problem, and the needs of the minor or the family in relation to the behavioral problem. The assessment shall be performed using a risk and needs assessment instrument, based on national models of successful youth risk and needs assessment instruments and utilizing objective assessment criteria, as appropriate for the clientele served by the program. At a minimum, the assessment shall include information drawn from interviews with the minor and with the parents or other adults having custody of the minor, and it shall include information on the minor's probation, school, health, and mental health status to the extent such information may be available and accessible.

(e) If the Youth Referral Center confirms upon assessment that the minor is at significant risk of future justice system involvement and that the minor may benefit from referral to services, the Youth Referral Center staff shall work with the minor and the parents to produce a written service plan to be implemented over a period of up to six months. The plan shall identify specific programs or services that are recommended by the center and are locally available to the

minor and the family as a means of addressing the behavior problems that led to the referral. The plan may include a requirement that the minor obey reasonable rules of conduct at home or in school including reasonable home curfew and school attendance rules, while the service plan is being implemented. The plan may also require, as a condition of further participation in the program, that a parent or other family member engage in counseling, parenting classes, or other relevant activities. To the extent possible given available resources, the staff at the Youth Referral Center shall facilitate compliance with the service plan by assisting the minor and the family in making appointments with service providers, by responding to requests for help by the minor or the parent as they seek to comply with the plan, and by monitoring compliance until the plan is completed.

(f) (1) The caseworker at the Youth Referral Center shall explain the service plan to the minor and the parents and, prior to any referral to services, the minor and the parents shall agree to the plan. The minor and the parents shall be informed that the minor's failure to accept or to cooperate with the service plan may result in the filing of a petition and a finding of wardship under Section 601.

(2) With the cooperation of the collaborative group described in subdivision (b), the Youth Referral Center shall review youth and family services offered within its local service area and shall identify providers, programs, and services that are available for referral of minors and parents under this section. Providers to which minors and parents may be referred under this section may be public or private agencies or individuals offering counseling, health, educational, parenting, mentoring, community service, skill-building, and other relevant services that are considered likely to resolve the behavioral problems that are referred to the center.

(g) (1) Unless the probation department is directly operating and staffing the Youth Referral Center, the probation department shall designate one or more probation officers to serve as liaison to a Youth Referral Center for the purpose of facilitating and monitoring compliance with service plans established in individual cases by the center.

(2) If, upon consultation with the minor's parents and with providers designated in the service plan, the supervising caseworker at the center and the liaison probation officer agree that the minor has willfully, significantly, and repeatedly failed to cooperate with the service plan, the minor shall be referred to the probation department which shall verify the failure and, upon verification, shall file a petition seeking to declare the minor a ward of the juvenile court under subdivision (a) of Section 601. No minor shall be referred to the probation department for the filing of a petition under this subdivision until at least 90 days have elapsed after the first attempt to implement the service plan. No minor shall be subject to filing of a petition under this subdivision for a failure to complete the service

plan which is due principally to an inability of the minor or the family to pay for services listed in the service plan.

(3) If, within 180 days of the start of the service plan, the minor and the family have substantially completed the service plan and the minor's behavior problem appears to have been resolved, the center shall notify the probation department that the plan has been successfully completed.

(h) If a petition to declare the minor a ward of the juvenile court under subdivision (a) of Section 601 has been filed by the probation officer under this section, the court shall review the petition and any other facts which the court deems appropriate in relation to the minor's alleged failure to comply with the service plan described in subdivision (e). Based upon this review, the court may continue any hearing on the petition for up to six months so that the minor and the minor's parents may renew their efforts to comply with the service plan under court supervision. During the period in which the hearing is continued, the court may order that the minor and the parent cooperate with the service plan designed by the Youth Referral Center, or the court may modify the service plan or may impose additional conditions upon the minor or the parents as may be appropriate to encourage resolution of the behavior problems that led to the filing of the petition. The court shall, during the period of continuance, periodically review compliance with the extended service plan through reports from the probation officer or by calling the parties back into court, based upon a review schedule deemed appropriate by the court.

(i) The juvenile court of any county participating in the At-Risk Youth Early Intervention Program shall designate a judicial officer to serve as a liaison to the program in order to participate in the development of the program and to coordinate program operations with the juvenile court. The liaison judicial officer may be designated by the juvenile court as the principal judicial officer assigned to review and hear petitions filed under this section, or if the court does not elect to designate a principal judicial officer to hear these cases, the juvenile court shall take steps to train or familiarize other judicial officers reviewing or hearing these cases as to the operations, procedures, and services of the At-Risk Youth Early Intervention Program.

SEC. 2. There is hereby appropriated from the General Fund the sum of two million dollars ($2,000,000) to the County of San Diego for support of a pilot At-Risk Youth Early Intervention Program as described in Section 601.5 of the Welfare and Institutions Code, which sum shall be allocated in equal amounts between private nonprofit and publicly administered early intervention providers.

# CHAPTER 910

An act to amend Sections 656.2 and 707 of the Welfare and Institutions Code, relating to minors.

[Approved by Governor October 12, 1997. Filed with Secretary of State October 12, 1997.]

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

SECTION 1. Section 656.2 of the Welfare and Institutions Code is amended to read:

656.2. (a) In any case in which a minor is alleged to have committed an act that would have been a felony if committed by an adult, the probation officer shall inform the victim of the rights of victims to submit a victim impact statement. If the victim exercises the right to submit a victim impact statement to the probation officer, the probation officer shall include the statement in his or her social study submitted to the court pursuant to Section 706 and, if applicable, in his or her report submitted to the court pursuant to Section 707. The probation officer also shall advise those persons as to the time and place of the disposition hearing to be conducted pursuant to Sections 702 and 706 and any fitness hearing to be conducted pursuant to Section 707.

The probation officer shall also provide the victim with information concerning the victim's right to an action for civil damages against the minor and his or her parents and the victim's opportunity to be compensated from the restitution fund. The information shall be in the form of written material prepared by the Judicial Council and shall be provided to each victim for whom the probation officer has a current mailing address.

(b) Notwithstanding any other provision of law, the persons from whom the probation officer is required to solicit a statement pursuant to subdivision (a) shall have the right to attend the disposition hearing conducted pursuant to Section 702 and to express their views concerning the offense and disposition of the case pursuant to Section 706 and to attend any fitness hearing conducted pursuant to Section 707.

(c) Notwithstanding any other provision of law, in any case in which a minor is alleged to have committed an act subject to a fitness hearing under Section 707, the victim shall have the right to be informed of all court dates and continuances pertaining to the case, and shall further have the right to obtain copies of the charging petition, the minutes of the proceedings, and orders of adjudications and disposition of the court that are contained in the court file. The arresting agency shall notify the victim in a timely manner of the address and telephone number of the juvenile branch of the district attorney's office that will be responsible for the case and for

informing the victim of the victim's right to attend hearings and obtain documents as provided in this section. The district attorney shall, upon request, inform the victim of the date of the fitness hearing, the date of the disposition hearing, and the dates for any continuances of those hearings, and shall inform the court if the victim seeks to exercise his or her right to obtain copies of the documents described in this subdivision.

Where the proceeding against the minor is based on a felony that is not listed in Section 676, a victim who obtains information about the minor under this subdivision shall not disclose or disseminate this information beyond his or her immediate family unless authorized to do so by a judge of the juvenile court, and the judge may suspend or terminate the right of the victim to access to information under this subdivision if the information is improperly disclosed or disseminated by the victim or any members of his or her immediate family. The intentional dissemination of documents in violation of this subdivision is a misdemeanor and shall be punished by a fine of not more than five hundred dollars ($500). Documents released by the court to a victim pursuant to this section shall be stamped as confidential and with a statement that the unlawful dissemination of the documents is a misdemeanor punishable by a fine of not more than five hundred dollars ($500).

(d) Upon application of the district attorney for good cause and a showing of potential danger to the public, the court may redact any information contained in any documents released by the court to a victim pursuant to this section.

(e) For purposes of this section, "victim" means the victim, the parent or guardian of the victim if the victim is a minor, or, if the victim has died, the victim's next of kin.

SEC. 2. Section 707 of the Welfare and Institutions Code is amended to read:

707. (a) In any case in which a minor is alleged to be a person described in Section 602 by reason of the violation, when he or she was 16 years of age or older, of any criminal statute or ordinance except those listed in subdivision (b), upon motion of the petitioner made prior to the attachment of jeopardy the court shall cause the probation officer to investigate and submit a report on the behavioral patterns and social history of the minor being considered for a determination of unfitness. Following submission and consideration of the report, and of any other relevant evidence which the petitioner or the minor may wish to submit, the juvenile court may find that the minor is not a fit and proper subject to be dealt with under the juvenile court law if it concludes that the minor would not be amenable to the care, treatment, and training program available through the facilities of the juvenile court, based upon an evaluation of the following criteria:

(1) The degree of criminal sophistication exhibited by the minor.

(2) Whether the minor can be rehabilitated prior to the expiration of the juvenile court's jurisdiction.

(3) The minor's previous delinquent history.

(4) Success of previous attempts by the juvenile court to rehabilitate the minor.

(5) The circumstances and gravity of the offense alleged in the petition to have been committed by the minor.

A determination that the minor is not a fit and proper subject to be dealt with under the juvenile court law may be based on any one or a combination of the factors set forth above, which shall be recited in the order of unfitness. In any case in which a hearing has been noticed pursuant to this section, the court shall postpone the taking of a plea to the petition until the conclusion of the fitness hearing, and no plea which may already have been entered shall constitute evidence at the hearing.

(b) Subdivision (c) shall be applicable in any case in which a minor is alleged to be a person described in Section 602 by reason of the violation, when he or she was 16 years of age or older, of one of the following offenses:

(1) Murder.

(2) Arson, as provided in subdivision (a) or (b) of Section 451 of the Penal Code.

(3) Robbery while armed with a dangerous or deadly weapon.

(4) Rape with force or violence or threat of great bodily harm.

(5) Sodomy by force, violence, duress, menace, or threat of great bodily harm.

(6) Lewd or lascivious act as provided in subdivision (b) of Section 288 of the Penal Code.

(7) Oral copulation by force, violence, duress, menace, or threat of great bodily harm.

(8) Any offense specified in subdivision (a) of Section 289 of the Penal Code.

(9) Kidnapping for ransom.

(10) Kidnapping for purpose of robbery.

(11) Kidnapping with bodily harm.

(12) Attempted murder.

(13) Assault with a firearm or destructive device.

(14) Assault by any means of force likely to produce great bodily injury.

(15) Discharge of a firearm into an inhabited or occupied building.

(16) Any offense described in Section 1203.09 of the Penal Code.

(17) Any offense described in Section 12022.5 of the Penal Code.

(18) Any felony offense in which the minor personally used a weapon listed in subdivision (a) of Section 12020 of the Penal Code.

(19) Any felony offense described in Section 136.1 or 137 of the Penal Code.

(20) Manufacturing, compounding, or selling one-half ounce or more of any salt or solution of a controlled substance specified in subdivision (e) of Section 11055 of the Health and Safety Code.

(21) Any violent felony, as defined in subdivision (c) of Section 667.5 of the Penal Code, which would also constitute a felony violation of subdivision (b) of Section 186.22 of the Penal Code.

(22) Escape, by the use of force or violence, from any county juvenile hall, home, ranch, camp, or forestry camp in violation of subdivision (b) of Section 871 where great bodily injury is intentionally inflicted upon an employee of the juvenile facility during the commission of the escape.

(23) Torture as described in Sections 206 and 206.1 of the Penal Code.

(24) Aggravated mayhem, as described in Section 205 of the Penal Code.

(25) Carjacking, as described in Section 215 of the Penal Code, while armed with a dangerous or deadly weapon.

(26) Kidnapping, as punishable in subdivision (d) of Section 208 of the Penal Code.

(27) Kidnapping, as punishable in Section 209.5 of the Penal Code.

(28) The offense described in subdivision (c) of Section 12034 of the Penal Code.

(29) The offense described in Section 12308 of the Penal Code.

(c) With regard to a minor alleged to be a person described in Section 602 by reason of the violation, when he or she was 16 years of age or older, of any of the offenses listed in subdivision (b), upon motion of the petitioner made prior to the attachment of jeopardy the court shall cause the probation officer to investigate and submit a report on the behavioral patterns and social history of the minor being considered for a determination of unfitness. Following submission and consideration of the report, and of any other relevant evidence which the petitioner or the minor may wish to submit the minor shall be presumed to be not a fit and proper subject to be dealt with under the juvenile court law unless the juvenile court concludes, based upon evidence, which evidence may be of extenuating or mitigating circumstances, that the minor would be amenable to the care, treatment, and training program available through the facilities of the juvenile court based upon an evaluation of each of the following criteria:

(1) The degree of criminal sophistication exhibited by the minor.

(2) Whether the minor can be rehabilitated prior to the expiration of the juvenile court's jurisdiction.

(3) The minor's previous delinquent history.

(4) Success of previous attempts by the juvenile court to rehabilitate the minor.

(5) The circumstances and gravity of the offenses alleged in the petition to have been committed by the minor.

A determination that the minor is a fit and proper subject to be dealt with under the juvenile court law shall be based on a finding of amenability after consideration of the criteria set forth above, and findings therefor recited in the order as to each of the above criteria that the minor is fit and proper under each and every one of the above criteria. In making a finding of fitness, the court may consider extenuating or mitigating circumstances in evaluating each of the above criteria. In any case in which a hearing has been noticed pursuant to this section, the court shall postpone the taking of a plea to the petition until the conclusion of the fitness hearing and no plea which may already have been entered shall constitute evidence at the hearing.

(d) (1) In any case in which a minor is alleged to be a person described in Section 602 by reason of the violation, when he or she had attained the age of 14 years but had not attained the age of 16 years, of any of the offenses set forth in paragraph (2), upon motion of the petitioner made prior to the attachment of jeopardy the court shall cause the probation officer to investigate and submit a report on the behavioral patterns and social history of the minor being considered for a determination of unfitness. Following submission and consideration of the report, and of any other relevant evidence that the petitioner or the minor may wish to submit, the juvenile court may find that the minor is not a fit and proper subject to be dealt with under the juvenile court law if it concludes that the minor would not be amenable to the care, treatment, and training program available through the facilities of the juvenile court, based upon an evaluation of the following criteria:

(A) The degree of criminal sophistication exhibited by the minor.

(B) Whether the minor can be rehabilitated prior to the expiration of the juvenile court's jurisdiction.

(C) The minor's previous delinquent history.

(D) Success of previous attempts by the juvenile court to rehabilitate the minor.

(E) The circumstances and gravity of the offense alleged in the petition to have been committed by the minor.

A determination that the minor is not a fit and proper subject to be dealt with under the juvenile court law may be based on any one or a combination of the factors set forth above, which shall be recited in the order of unfitness. In any case in which a hearing has been noticed pursuant to this subdivision, the court shall postpone the taking of a plea to the petition until the conclusion of the fitness hearing, and no plea that may already have been entered shall constitute evidence at the hearing.

(2) Paragraph (1) shall be applicable in any case in which a minor is alleged to be a person described in Section 602 by reason of the violation, when he or she had attained the age of 14 years but had not attained the age of 16 years, of one of the following offenses:

(A) Murder.

(B) Robbery in which the minor personally used a firearm.
(C) Rape with force or violence or threat of great bodily harm.
(D) Sodomy by force, violence, duress, menace, or threat of great bodily harm.
(E) Oral copulation by force, violence, duress, menace, or threat of great bodily harm.
(F) The offense specified in subdivision (a) of Section 289 of the Penal Code.
(G) Kidnapping for ransom.
(H) Kidnapping for purpose of robbery.
(I) Kidnapping with bodily harm.
(J) Kidnapping, as punishable in subdivision (d) of Section 208 of the Penal Code.
(K) The offense described in subdivision (c) of Section 12034 of the Penal Code, in which the minor personally used a firearm.
(L) Personally discharging a firearm into an inhabited or occupied building.
(M) Manufacturing, compounding, or selling one-half ounce or more of any salt or solution of a controlled substance specified in subdivision (e) of Section 11055 of the Health and Safety Code.
(N) Escape, by the use of force or violence, from any county juvenile hall, home, ranch, camp, or forestry camp in violation of subdivision (b) of Section 871 where great bodily injury is intentionally inflicted upon an employee of the juvenile facility during the commission of the escape.
(O) Torture, as described in Section 206 of the Penal Code.
(P) Aggravated mayhem, as described in Section 205 of the Penal Code.
(Q) Assault with a firearm in which the minor personally used the firearm.
(R) Attempted murder.
(S) Rape in which the minor personally used a firearm.
(T) Burglary in which the minor personally used a firearm.
(U) Kidnapping in which the minor personally used a firearm.
(V) The offense described in Section 12308 of the Penal Code.
(W) Kidnapping, in violation of Section 209.5 of the Penal Code.
(X) Carjacking, in which the minor personally used a firearm.
(e) This subdivision shall apply to a minor alleged to be a person described in Section 602 by reason of the violation, when he or she had attained the age of 14 years but had not attained the age of 16 years, of the offense of murder in which it is alleged in the petition that one of the following exists:
(1) In the case of murder in the first or second degree, the minor personally killed the victim.
(2) In the case of murder in the first or second degree, the minor, acting with the intent to kill the victim, aided, abetted, counseled, commanded, induced, solicited, requested, or assisted any person to kill the victim.

(3) In the case of murder in the first degree, while not the actual killer, the minor, acting with reckless indifference to human life and as a major participant in a felony enumerated in paragraph (17) of subdivision (a) of Section 190.2, or an attempt to commit that felony, aided, abetted, counseled, commanded, induced, solicited, requested, or assisted in the commission or attempted commission of that felony and the commission or attempted commission of that felony or the immediate flight therefrom resulted in the death of the victim.

Upon motion of the petitioner made prior to the attachment of jeopardy, the court shall cause the probation officer to investigate and submit a report on the behavioral patterns and social history of the minor being considered for a determination of unfitness. Following submission and consideration of the report, and of any other relevant evidence which the petitioner or the minor may wish to submit, the minor shall be presumed to be not a fit and proper subject to be dealt with under the juvenile court law unless the juvenile court concludes, based upon evidence, which evidence may be of extenuating or mitigating circumstances, that the minor would be amenable to the care, treatment, and training program available through the facilities of the juvenile court based upon an evaluation of each of the following criteria:

(A) The degree of criminal sophistication exhibited by the minor.

(B) Whether the minor can be rehabilitated prior to the expiration of the juvenile court's jurisdiction.

(C) The minor's previous delinquent history.

(D) Success of previous attempts by the juvenile court to rehabilitate the minor.

(E) The circumstances and gravity of the offenses alleged in the petition to have been committed by the minor.

A determination that the minor is a fit and proper subject to be dealt with under the juvenile court law shall be based on a finding of amenability after consideration of the criteria set forth above, and findings therefor recited in the order as to each of the above criteria that the minor is fit and proper under each and every one of the above criteria. In making a finding of fitness, the court may consider extenuating or mitigating circumstances in evaluating each of the above criteria. In any case in which a hearing has been noticed pursuant to this section, the court shall postpone the taking of a plea to the petition until the conclusion of the fitness hearing and no plea which may already have been entered shall constitute evidence at the hearing.

(f) Any report submitted by a probation officer pursuant to this section regarding the behavioral patterns and social history of the minor being considered for a determination of unfitness shall include any written or oral statement offered by the victim, the victim's parent or guardian if the victim is a minor, or if the victim has died, the victim's next of kin, as authorized by subdivision (b) of Section

656.2. Victims' statements shall be considered by the court to the extent they are relevant to the court's determination of unfitness.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because in that regard this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

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

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## CHAPTER 911

An act to amend Section 57079 of, and to add Sections 56075.5, 56656, 56844.2, 57103.1, 57132.5, and 57176.1 to, the Government Code, relating to local government organization.

[Approved by Governor October 12, 1997. Filed with Secretary of State October 12, 1997.]

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

SECTION 1. Section 56075.5 is added to the Government Code, to read:

56075.5. "Special reorganization" means a reorganization that includes the detachment of territory from a city or city and county and the incorporation of that entire detached territory as a city.

SEC. 2. Section 56656 is added to the Government Code, to read:

56656. (a) Notwithstanding any other provision of this division, proceedings for a special reorganization that consists of the detachment of territory consisting of all of the San Fernando Valley from the City of Los Angeles and the incorporation of that entire detached territory as a city shall by conducted pursuant to this section. In the event of any conflict between this section and the provisions of this division, this section shall prevail.

(b) There is created the Special Commission on Los Angeles Boundaries, which shall consist of eight members. Within three months from the date that funds are appropriated for the implementation of this section, the Governor shall appoint two members, the Speaker of the Assembly shall appoint one member, and the Senate Committee on Rules shall appoint one member to the special commission from lists of nominees submitted by community groups whose members reside within the San Fernando Valley. Within three months from the date that funds are appropriated for the implementation of this section, the City Council of the City of Los Angeles shall appoint four members to the special commission.

(c) Notwithstanding any other provision of this division, or Section 7550.5, within nine months from the date that funds are appropriated for the implementation of this section, the special commission shall issue a report with recommendations to the Local Agency Formation Commission of the County of Los Angeles, the City Council of the City of Los Angeles, the Board of Supervisors of the County of Los Angeles, the Governor, and the Legislature, regarding the feasibility and desirability of a special reorganization that consists of the detachment of territory consisting of all of the San Fernando Valley from the City of Los Angeles and the incorporation of that entire detached territory as a city. The report shall include, but not be limited to, the following:

(1) A comprehensive fiscal analysis that substantially complies with Section 56833.1.

(2) The amount of property tax revenue that would be exchanged pursuant to Section 56842.

(3) The provisional appropriations limit that would be determined pursuant to Section 56842.6.

(4) Any terms and conditions that would be imposed pursuant to Sections 56843, 56844, and 56845.

(5) Any other matters that the special commission deems relevant.

(d) A special reorganization may be initiated, the Local Agency Formation Commission of the County of Los Angeles may conduct commission proceedings for a special reorganization, the conducting authority may conduct proceedings, an election may be conducted, and a special reorganization may be completed before the special commission issues the report required pursuant to subdivision (c).

(e) The special commission shall conduct public meetings to solicit the views and advice of the public, including elected and appointed local officials, regarding city organization and boundaries in the County of Los Angeles.

(f) The special commission shall select a chair and vice chair from among its respective membership.

(g) The members of the special commission shall be reimbursed for their actual and necessary expenses for attending the meetings of the special commission. The special commission may authorize a

payment of a per diem not to exceed one hundred dollars ($100) to the members of the special commission for each day while they are in attendance at meetings of the special commission. The per diem may be in addition to the reimbursement for actual and necessary expenses. The special commission may appoint employees, including counsel, define their qualifications and duties, and provide compensation for the performance of their duties. The special commission may contract with any other public or private agency for any services necessary to carry out the purposes of this section. The cost of the quarters, equipment, supplies, and operating expenses incurred by the special commission shall not be a county charge but shall be paid by the special commission.

(h) As used in this section:

(1) "San Fernando Valley" means the territory included within the San Fernando Valley Statistical Area, as defined in Section 11093.

(2) "Special commission" means the Special Commission on Los Angeles Boundaries created pursuant to subdivision (b).

(i) This section shall only be implemented to the extent that funds for that purpose are appropriated in the annual Budget Act.

SEC. 3. Section 56844.2 is added to the Government Code, to read:

56844.2. (a) This section shall only apply to a special reorganization.

(b) All public employees to which Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 applies shall continue to be deemed public employees of the original local agency or of the newly incorporated local agency for all the purposes of that chapter, including, but not limited to, the continuation and application of any collective bargaining agreement that applies to these employees, and all representational and collective bargaining rights under that chapter.

(c) Any existing collective bargaining agreement shall remain in effect and be fully binding on the original local agency or on the newly incorporated local agency, and on the employee organizations that are parties to the agreement for the balance of the term of the agreement, and until a subsequent agreement has been established.

(d) Any existing retiree benefits, including, but not limited to, health, dental, and vision care benefits, shall not be diminished.

(e) Notwithstanding any other provision of law, an employee organization that has been recognized as the exclusive representative of local agency public employees affected by a special reorganization shall retain exclusive representation of the unit employees of the original local agency, or of the newly incorporated local agency.

SEC. 4. Section 57079 of the Government Code is amended to read:

57079. (a) Notwithstanding Sections 57075 and 57078, if the proposed change of organization is a city detachment, the

conducting authority, not more than 30 days after the conclusion of the hearing, may by resolution terminate the detachment proceedings.

(b) Notwithstanding Sections 57075, 57077, and 57078, if a proposed reorganization includes the detachment of territory from any city, the conducting authority, not more than 30 days after conclusion of the hearing, shall terminate the proceeding if a resolution or written protest against the reorganization is filed prior to the conclusion of the hearing by any city from which any portion of the territory of the city would be detached or removed pursuant to the reorganization.

(c) This section shall not apply to a special reorganization.

SEC. 5. Section 57103.1 is added to the Government Code, to read:

57103.1. Notwithstanding Section 57103, in any resolution ordering a special reorganization, the conducting authority shall call an election in both of the following territories:

(a) The territory ordered to be detached from the city.

(b) The entire territory of the city from which the detachment is ordered to occur.

SEC. 6. Section 57132.5 is added to the Government Code, to read:

57132.5. Notwithstanding Section 57132, the election on the question of a special reorganization shall be called and held at the next regular primary or general election occurring in an even-numbered year at least 88 days after the date on which the resolution calling the election was adopted.

SEC. 7. Section 57176.1 is added to the Government Code, to read:

57176.1. Notwithstanding subdivision (a) of Section 57176, the conducting authority shall adopt, within 30 days of the canvass of the election, a resolution confirming a special reorganization if a majority of votes cast upon the question are in favor of the special reorganization in both of the following circumstances:

(a) An election called in the territory ordered to be detached from the city.

(b) An election called in the entire territory of the city from which the detachment is ordered to occur.

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## CHAPTER 912

An act to amend Section 33126 of the Education Code, relating to schools.

[Approved by Governor October 12, 1997. Filed with Secretary of State October 12, 1997.]

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

SECTION 1. Section 33126 of the Education Code is amended to read:

33126. (a) The school accountability report card shall provide data by which parents can make meaningful comparisons between public schools enabling them to make informed decisions on which school to enroll their children.

(b) The school accountability report card shall include, but is not limited to, assessment of the following school conditions:

(1) Pupil achievement in and progress toward meeting reading, writing, arithmetic, and other academic goals, including results by grade level from the assessment tool used by the school district using percentiles when available for the most recent three-year period. After the state develops a statewide assessment system pursuant to Chapter 5 (commencing with Section 60600) and Chapter 6 (commencing with Section 60800) of Part 33, the school accountability report card shall include pupil achievement by grade level, as measured by the results of the statewide assessment. Secondary schools with high school seniors shall list both the average verbal and math Scholastic Assessment Test scores to the extent provided to the school and the percentage of seniors taking that exam for the most recent three-year period.

(2) Progress toward reducing dropout rates, including the one-year dropout rate listed in California Basic Education Data System for the schoolsite over the most recent three-year period.

(3) Estimated expenditures per pupil and types of services funded.

(4) Progress toward reducing class sizes and teaching loads, including the distribution of class sizes at the schoolsite by grade level, the average class size, and the percentage of pupils in kindergarten and grades 1 to 3, inclusive, participating in the Class Size Reduction Program established pursuant to Chapter 6.10 (commencing with Section 52120) of Part 28, using California Basic Education Data System information for the most recent three-year period.

(5) The total number of the school's credentialed teachers, the number of teachers relying upon emergency credentials, the number of teachers working without credentials, and any assignment of teachers outside their subject areas of competence for the most recent three-year period.

(6) Quality and currency of textbooks and other instructional materials.

(7) The availability of qualified personnel to provide counseling and other pupil support services.

(8) Availability of qualified substitute teachers.

(9) Safety, cleanliness, and adequacy of school facilities.

(10) Adequacy of teacher evaluations and opportunities for professional improvement, including the annual number of schooldays dedicated to staff development for the most recent three-year period.

(11) Classroom discipline and climate for learning, including suspension and expulsion rates for the most recent three-year period.

(12) Teacher and staff training, and curriculum improvement programs.

(13) Quality of school instruction and leadership.

(14) The degree to which pupils are prepared to enter the work force.

(15) The total number of instructional minutes offered in the school year, separately stated for each grade level, as compared to the total number of the instructional minutes per school year required by state law, separately stated for each grade level.

(16) The total number of minimum days, as specified in Sections 46112, 46113, 46117, and 46141, in the school year.

(c) It is the intent of the Legislature that schools make a concerted effort to notify parents of the purpose of the school accountability report cards, as described in this section, and ensure that all parents receive a copy of the report card; to ensure that the report cards are easy to read and understandable by parents; and to ensure that administrators and teachers are available to answer any questions regarding the report cards.

SEC. 2. The Legislature finds and declares that this act furthers the purposes of the Classroom Instructional Improvement and Accountability Act.

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

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

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## CHAPTER 913

An act to add Sections 116049.1 and 116064 to the Health and Safety Code, relating to pool safety.

[Approved by Governor October 12, 1997. Filed with Secretary of State October 12, 1997.]

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

SECTION 1. Section 116049.1 is added to the Health and Safety Code, to read:

116049.1. (a) “Public swimming pool,” as used in this section, means any swimming pool operated for the use of the general public with or without charge, or for the use of the members and guests of a private club, including any swimming pool located on the grounds of a hotel, motel, inn, an apartment complex, or any residential setting other than a single-family home. For purposes of this section, public swimming pool shall not include a swimming pool located on the grounds of a private single-family home, or a swimming pool owned or operated by the state or any local governmental entity as set forth in Section 116049.

(b) All dry-niche light fixtures, and all underwater wet-niche light fixtures operating at more than 15 volts in public swimming pools, as defined in this section, shall be protected by a ground-fault circuit interrupter in the branch circuit, and all light fixtures in public swimming pools shall have encapsulated terminals.

(c) Any public swimming pool that does not meet the requirements specified in subdivision (b) by January 1, 1998, shall be retrofitted to comply with these requirements by July 1, 1998.

(d) The ground-fault circuit interrupter required pursuant to this section shall comply with Underwriter’s Laboratory standards.

(e) The owner or operator of a public swimming pool shall have its public swimming pool inspected by a qualified inspector on or before September 1, 1998, to determine compliance with this section.

(f) All electrical work required for compliance with this section shall be performed by an electrician licensed pursuant to Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code.

SEC. 2. Section 116064 is added to the Health and Safety Code, to read:

116064. (a) As used in this section the following words have the following meanings:

(1) (A) “Public wading pool” means a pool that meets all of the following criteria:

(i) It has a maximum water depth not exceeding 18 inches.

(ii) It is a pool other than a pool that is located on the premises of a one-unit or two-unit residence, intended solely for the use of the residents or guests.

(B) “Public wading pool” includes, but is not limited to, a pool owned or operated by private persons or agencies, or by state or local governmental agencies.

(C) “Public wading pool” includes, but is not limited to, a pool located in an apartment house, hotel, or similar setting, that is intended for the use of residents or guests.

(2) “Alteration” means any of the following:

(A) To change, modify, or rearrange the structural parts or the design.

(B) To enlarge.

(C) To move the location of.

(D) To install a new water circulation system.

(E) To make any repairs costing fifty dollars ($50) or more to an existing circulation system.

(b) A public wading pool shall have at least two circulation drains per pump that are hydraulically balanced and symmetrically plumbed through one or more "T" fittings, and are separated by a distance of at least three feet in any dimension between the drains.

(c) All public wading pool main drain suction outlets that are under 12 inches across shall be covered with antivortex grates or similar protective devices. All main drain suction outlets shall be covered with grates or antivortex plates that cannot be removed except with the use of tools. Slots or openings in the grates or similar protective devices shall be of a shape, area, and arrangement that would prevent physical entrapment and would not pose any suction hazard to bathers.

(d) (1) The State Department of Health Services may adopt regulations pursuant to this section.

(2) The regulations may include, but not be limited to, standards permitting the use of alternative devices or safeguards, or incorporating new technologies, that produce, at a minimum, equivalent protection against entrapment and suction hazard, whenever these devices, safeguards, or technologies become available to the public.

(3) Regulations adopted pursuant to this section constitute building standards and shall be forwarded pursuant to subdivision (e) of Section 11343 of the Government Code to the California Building Standards Commission for approval as set forth in Section 18907 of the Health and Safety Code.

(e) The California Building Standards Commission shall approve the building standards as set forth in this section and publish them in the California Building Standards Code by November 1, 1999. The commission shall publish the text of this section in Title 24 of the California Code of Regulations, Part 2, Chapter 31B, requirements for public swimming pools, with the following note: "NOTE: These building standards are in statute but have not been adopted through the regulatory process." Enforcement of the standards set forth in this section does not depend upon adoption of regulations, therefore, enforcement agencies shall enforce the standards pursuant to the timeline set forth in this section prior to adoption of related regulations.

(f) The maximum velocity in the pump suction hydraulic system shall not exceed six feet per second when 100 percent of the pump's flow comes from the main drain system and any main drain suction fitting in the system is completely blocked.

(g) On and after January 1, 1998, all newly constructed public wading pools shall be constructed in compliance with this section.

(h) Commencing January 1, 1998, whenever a construction permit is issued for alteration of an existing public wading pool, it shall be retrofitted so as to be in compliance with this section.

(i) By January 1, 2000, every public wading pool, regardless of the date of original construction, shall be retrofitted to comply with this section.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because in that regard this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 177556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Moreover, no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for other 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.

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

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## CHAPTER 914

An act to add Section 89009 to the Education Code, and to augment Item 6610-301-0658 of Section 2.00 of the Budget Act of 1997, relating to postsecondary education, and making an appropriation therefor.

[Approved by Governor October 12, 1997. Filed with
Secretary of State October 12, 1997.]

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

SECTION 1. Section 89009 is added to the Education Code, to read:

89009. (a) It is the intent of the Legislature that the land and improvements comprising the Camarillo State Hospital be transferred to the trustees to be developed and improved as a campus of the California State University in order to make public postsecondary education more available to qualified persons in the Ventura County area as well as throughout the state.

(b) Upon approval by the trustees, the Department of General Services shall transfer the land and improvements comprising the Camarillo State Hospital to the trustees. The Department of General Services shall be reimbursed for its administrative costs incurred in connection with the transfer, and an amount not to exceed five thousand dollars ($5,000) is hereby appropriated from the General Fund to the department for that purpose.

(c) In order to raise revenues to assist in building a campus of the California State University and to provide a source of funding for the program thereof, the trustees may sell and lease interests in real property included within the land comprising Camarillo State Hospital that are not needed for campus purposes. The proceeds from any sale or lease pursuant to this section shall be deposited in local trust accounts and are available for expenditure for the improvement of real property of the campus and funding the programs of the campus. Funds so deposited and maintained may be invested in accordance with state law and are continuously appropriated without regard to fiscal year for the purpose of building, maintaining, and funding a campus of the California State University in Ventura County at the site of the Camarillo State Hospital. By September 1 of each year, the trustees shall report to the Governor and the Legislature on the revenues obtained from sales and leases made pursuant to this subdivision and the expenditures made based upon those revenues during the prior fiscal year.

(d) This section shall be liberally construed to accomplish the intent of the Legislature.

(e) This section does not apply to the approximately 57-acre noncontiguous parcel of the Camarillo State Hospital property located on Lewis Road in Ventura County.

SEC. 2. The sum of six hundred seven thousand dollars ($607,000) is hereby appropriated from the Higher Education Capital Outlay Bond Fund of 1996 to the California State University, in augmentation of the appropriation made in Schedule (0.5) of Item 6610-301-0658 of Section 2.00 of the Budget Act of 1997 (Ch. 282, Stats. 1997).

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## CHAPTER 915

An act to add Section 33117.7 to the Education Code, and to amend Section 15037.1 of the Unemployment Insurance Code, relating to school-to-career opportunities.

[Approved by Governor October 12, 1997. Filed with Secretary of State October 12, 1997.]

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

SECTION 1. Section 33117.7 is added to the Education Code, to read:

33117.7. The Superintendent of Public Instruction shall use 30 percent of the funds available under Section 202(c)(1)(C) and Section 262(c)(1)(C) of the federal Job Training Partnership Act to support the work-based learning component of a school-to-career program. These funds shall be expended as authorized by the federal act and shall be targeted for activities that create and support paid internships in the private sector, with an emphasis on small businesses, and paid work experience in the public sector or private nonprofit sector, for youth.

SEC. 2. Section 15037.1 of the Unemployment Insurance Code is amended to read:

15037.1. (a) The state council shall be responsible for developing an education and job training report card program to assess the accomplishments of California's work force preparation system.

(1) A subcommittee of the state council shall be established for this purpose.

(2) The subcommittee shall be comprised of three private sector members of the state council, the director of the department, the Superintendent of Public Instruction, the Chancellor of the California Community Colleges, or their designees, and representatives of programs that are to be measured under the report card program.

(3) The subcommittee shall be responsible for designing and implementing, or contracting with an operating entity for the implementation of, a system that can compile, maintain, and disseminate information on the performance of providers, programs, and the overall work force preparation system.

(b) By January 1, 2001, the subcommittee or an operating entity under contract to the subcommittee shall operate a comprehensive performance-based accountability system that matches the social security numbers of former participants in state education and training programs with information in files of state and federal agencies that maintain employment and educational records and identifies the occupations of those former participants whose social security numbers are found in employment records.

(c) This system shall measure the performance of state and federally funded education and training programs. Programs to be measured shall include programs in receipt of funds from the Job Training Partnership Act, the Carl D. Perkins Vocational Education Act, the Job Opportunities and Basic Skills program, the Food Stamp Employment and Training program, the Wagner Peyser Act, the Employment Training Panel, adult education programs as defined by paragraph (9) of subdivision (b) of Section 10521, vocational education programs, and certificated community college programs.

(d) Job training and education providers receiving funding identified in subdivision (c) shall, to the extent permitted by federal law, request social security numbers from each participant in a work force preparation program and shall report to the subcommittee or an operating entity under contract to the subcommittee, as the case may be, on participant social security numbers and economic and demographic characteristics, including, but not limited to, age, gender, race or ethnicity, and education achievement. The state council shall establish the acceptable format and timeframes for data submission.

(e) The Superintendent of Public Instruction shall ensure that local education agencies that operate programs specified in subdivision (c) issue the following notice to all participants in work force preparation programs:

“PRIVACY NOTICE

Section 15037.1 of the Unemployment Insurance Code, allows job training and education providers to solicit your social security number and other personal information from you to find out if the education or training program you are enrolled in is meeting its goals of preparing individuals for employment.

The information that can be requested includes:

* Your social security number.
* Demographic information (such as your age, ethnicity, and educational achievement level).
* Information about the kinds of services you were provided (such as the type of training received, length of training, and completion dates).

Any information gathered about you will be summed up by the State Job Training Coordinating Council along with the same kinds of information about others to determine the success of the programs you are enrolled in. You will not be individually identified in any reports made to the public.

You may decide whether or not to provide your social security number and other demographic and program information for the purposes identified in this notice. It is voluntary. If you do not wish to provide this information you can still receive services.

If you are under 18, your parent or guardian should sign this form.

______________________________
Name of participant

My signature means that I have been informed of the ways the social security number and other information will be used and that I have made a voluntary decision to provide the social security number and other information.

______________________________ ______________
Signature of participant (or parent or guardian if participant is under 18) Date

My signature means that I have been informed of the ways the social security number and other information will be used and that I have made a voluntary decision NOT to provide the social security number and other information.

______________________________ ______________
Signature of participant (or parent or guardian if participant is under 18) Date

A copy of the record or information to be released may be requested by the participant by submission of a request in writing.''

(f) The Superintendent of Public Instruction may modify the Privacy Notice set forth in subdivision (e) in order to comply with federal privacy law with prior notice to the Assembly Committee on Labor and Employment and the Senate Committee on Industrial Relations.

(g) The system shall be designed to measure factors such as:

(1) Amount and source of funding.

(2) Program entrance and successful completion rates.

(3) Employment and wage information for one and three years after completion of training.

(4) The relationship of training to employment.

(5) Academic achievement for one and three years after completion of training.

(6) Achievement of industry skill standard certifications, where they exist.

(7) Return on public investment.

(h) Based upon the information compiled pursuant to this section, the subcommittee or an operating entity under contract to the subcommittee, as the case may be, shall, by December 31, 1997, and each December 31 thereafter, do all of the following:

(1) Prepare and disseminate report cards for all training and education providers in receipt of funds included in the tracking system.

(2) Prepare and disseminate local and statewide report cards that measure the outcomes of the individual programs that operate as part of the work force development system.

(3) Prepare and disseminate a state report card that measures the performance of the entire system of work force preparation and the effectiveness of the system in meeting employers' needs for educated and trained workers and the clients' needs for improving their economic well-being.

(i) The state council shall develop objective performance standards emphasizing the principles of continuous improvement for the programs covered under this section, and a system of sanctions and incentives to encourage performance that meet these standards.

(j) The state council shall explore the feasibility of including the following persons in this system:

(1) Attendees at private postsecondary institutions.

(2) Recipients of federal student loans.

(3) Recipients of Pell grants.

(4) Pupils in grades 11 and 12.

(5) Students enrolled in any community college, California State University, or University of California program.

(k) The sole purpose of this section is to assess the performance of state and federal employment and training providers and programs in preparing Californians for the work force. Collection and use of social security numbers pursuant to this section shall be consistent with the requirements of Section 7 of the federal Privacy Act of 1974 (P.L. 93-579) and Section 405(c)(2)(C) of Title 42 of the United States Code. Notwithstanding Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code, or any other provision of law, the social security number of any person obtained pursuant to this section is not a public record, and shall not be disclosed except for the purpose of this section. Information obtained pursuant to this section shall not be sold or distributed to any entity without prior consent from the individual, or his or her parent or guardian, with respect to whom the information is gathered. This subdivision does not prohibit the exchange of information with other governmental departments and agencies, both federal and state, that are concerned with the administration of work force development programs. Neither the subcommittee nor an operating entity under contract to the subcommittee, as the case may be, may make public any information that could identify an individual or his or her employer.

(*l*) An education and training program that requires information gathered by the education and job training report card program shall use the report card program and shall not initiate automated

matching of records in duplication of methods already in place as a result of the report card program.

(m) Funding for the development and maintenance of the education and job training report card program shall be made available on a shared basis by the programs the report card program is measuring, to the extent authorized by federal and state law. The subcommittee, or the operating entity under contract to the subcommittee, shall have the authority to assess each of the programs with an appropriate share of the costs of the report card program. Administrative funds currently used for program followup activities for the identified programs shall be redirected for this purpose, if authorized by federal law.

(n) The state council shall apply for any federal waivers that may be necessary to implement this section.

SEC. 3. It is the intent of the Legislature that the Governor request a waiver from the United States Department of Labor on restrictions under regulations adopted pursuant to the federal Job Training Partnership Act that limit work experience under the act's summer youth employment and training program to placements in public or private nonprofit organizations in order to increase the coordination between the summer youth employment training program and the state's school-to-career program.

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.

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## CHAPTER 916

An act to add and repeal Section 1596.7925 of the Health and Safety Code, relating to child day care facilities.

[Approved by Governor October 12, 1997. Filed with Secretary of State October 12, 1997.]

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

SECTION 1. Section 1596.7925 is added to the Health and Safety Code, immediately following Section 1596.792, to read:

1596.7925. (a) In addition to the exempt settings set forth in Section 1596.792, as a three-year pilot program in Orange County, this chapter and Chapters 3.5 (commencing with Section 1596.90) and 3.6 (commencing with Section 1597.30) do not apply to an extended day care program that is operated by an individual, organization, or other entity pursuant to a contract with a public school, or a school district, provided that the contracting school district ensures that the program meets all of the following conditions:

(1) The program is operated on a schoolsite that is in current use by the public school or school district that has contracted for the extended day care program.

(2) The contracting school or school district has ensured that employees of the extended day care program operator have had a criminal background check performed by the Department of Justice and a Child Abuse Index Clearance and the results have been returned to the school or school district.

(3) Individuals employed by the program to serve as program supervisors are over the age of 18.

(4) The contract with the public school or school district shall include, but not be limited to, all of the following:

(A) Staff qualifications pursuant to Section 1597.21.

(B) A requirement that the contractor shall comply with the child-to-staff ratios otherwise applicable by law to extended day care programs.

(C) A requirement that the contractor shall comply with the sign-in and sign-out regulations otherwise applicable by law to extended day care programs.

(D) A provision guaranteeing timely investigation of complaints and providing for immediate administrative leave of contracted employees pending the outcome of the investigation in cases relating to allegations involving a substantial threat to the health and safety of the children being cared for.

(5) All classrooms or portable classrooms utilized by the extended day care program shall comply with the Field Act (See Section 17281 of the Education Code).

(6) The requirements of Section 45125 of the Education Code shall apply to programs operated under this section.

(7) This section does not require all public schools or school districts that contract for the provision of extended day care services in Orange County to operate the program pursuant to this section. The public school or school district may elect to have the program operate pursuant to the licensing exemption set forth in this section or, in the alternative, may require pursuant to the contract that the program operate subject to all licensure requirements otherwise applicable to extended day care programs.

(b) A school district contracting with a child care program pursuant to this section shall ensure that an annual evaluation of the

health and safety of the children in the child care program is conducted by a consultant or organization that is independent of the school district and of the child care program. The results of the independent evaluation shall be reported annually, by December 31, to the Department of Social Services, the Assembly Human Services Committee, and the Senate Health and Human Services Committee.

(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.

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## CHAPTER 917

An act to amend Section 8481 of the Education Code, relating to human services, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 12, 1997. Filed with Secretary of State October 12, 1997.]

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

SECTION 1. Section 8481 of the Education Code, as added by Chapter 270 of the Statutes of 1997, is amended to read:

8481. (a) Subject to appropriation in the annual Budget Act, for the purpose of the program in this article, the Superintendent of Public Instruction may allocate funds for the establishment of school-based schoolage before and after school programs that include homework and tutoring assistance, improve literacy skills, and provide recreational activities, as well as facilitate the transition from welfare to work by providing child care for schoolage children and potential employment for welfare recipients who are parents of children enrolled in schoolage child care programs.

(b) A before and after school program, whether public, private, or school district operated, in collaboration with other local governmental agencies, may apply to the State Department of Education for funding under this article. A before and after school program that receives funding pursuant to this article may participate in any other grant programs that fund literacy and technology activities.

(c) In order to achieve the goals of assisting children in learning, providing parents with employment and parenting skills, providing a safe environment for children, and helping prevent crime in neighborhoods, a program funded under this article shall be a collaborative effort with a school district, and may also include collaboration with any combination of the following: other school districts, community college districts, counties, cities, community-based organizations, not-for-profit organizations, the

local agency that provides the Even Start Family and Head Start literacy programs or their equivalent programs, and the private sector.

(d) In selecting programs for funding under this article, the department shall use the standards set forth in Section 8463 and all of the following criteria:

(1) Programs shall have demonstrated experience in implementing quality before or after school child development programs.

(2) Programs shall demonstrate the inclusion of a strong literacy component.

(3) Programs shall demonstrate a working collaboration with entities listed in subdivision (c), including Even Start Family and Head Start literacy program providers, to the extent that these programs exist in the service area.

(e) Notwithstanding Section 8468, in allocating funds pursuant to this article, preference shall be given to programs that currently employ recipients of aid under Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code, or any successor program, who are parents of children enrolled in the applicant programs or that have a demonstrated commitment to providing employment opportunities for those recipients of aid, or both.

(f) Funding received by a before and after school program pursuant to this article may be renewed and is contingent upon the following:

(1) Compliance with the requirement of subdivision (c), the criteria set forth in subdivision (d), and the priorities set forth in subdivision (e).

(2) A favorable evaluation completed by the State Department of Education pursuant to Section 8498.8 or an evaluation that meets the standards of the department. Outcomes shall include academic achievement determined by measurements such as test scores, grades, school attendance, and number of disciplinary actions.

(3) Programs shall demonstrate that they are receiving locally generated resources from other than federal and state sources, which may include in-kind contributions.

(g) (1) A program established under this section may employ parents of schoolage children who are participating in the program established pursuant to Article 3.2 (commencing with Section 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code, or any successor program, and may employ those parents in the schools attended by their own children. Parents employed pursuant to this subdivision may also participate in training programs at least six hours per week, in order to help them understand child development, learn parenting skills, and obtain skills for employment in either an educational or child care setting. Employment in the program may fulfill a participant's employment requirements under

Article 3.2 (commencing with Section 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code.

(2) A program shall also be encouraged to hire older siblings of children in the program whose families receive aid under Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code, or any successor program, to work in either the program's literacy or recreation components. It is the intent of this subdivision that hiring teenagers from families that receive aid under this Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code, or any successor program, will provide an additional source of income for these families.

(3) All program participants shall be assessed before they work with children to determine their skills and literacy development and a criminal background check on each participant shall be completed before that participant begins to work with children. Participants shall be supervised by qualified staff.

(4) (A) Notwithstanding any other provision of law, but subject to subparagraph (B), programs operating under this article that use recipients of aid under Article 3.2 (commencing with Section 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code, or any successor program, may count those recipients as staff members for purposes of determining compliance with staffing ratio requirements.

(B) Teenage siblings used by programs operating under this article may not be included in computing compliance with staffing ratio requirements.

(5) Notwithstanding any other provisions of law, programs operating under this section may extend their hours of operation beyond 20 hours per week.

(h) A program established pursuant to this section shall assist the children of recipients of aid under Article 3.2 (commencing with Section 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code, or any successor program, and other children to complete homework, improve literacy skills, that shall include, but not be limited to, reading, writing, mathematical, and computer skills, and participate in recreational activities.

(i) Programs funded under this section shall provide training on how to work with children on reading, writing, listening, and speaking. This training shall be provided in collaboration with an Even Start Family or Head Start literacy program, or their equivalent programs.

(j) (1) Notwithstanding Sections 8468 and 8473, priority for funding shall be given to schoolsites where a minimum of 70 percent of the children are eligible for, or are recipients of, either aid under Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code or free or reduced-cost meals through the school lunch program.

(2) Priority for enrollment in programs funded under this section shall be given in accordance with Section 8468.5.

(k) Programs funded under this section shall be encouraged to take advantage of free snack programs administered by the United States Department of Agriculture.

(*l*) It is the intent of this article, by providing a safe, supervised after school environment for children, including those teens employed by a program, to reduce criminal activity among juveniles, and to strengthen parent-child relationships and communities by involving parents in their children's schoolwork and schools.

(m) Notwithstanding Section 8360.1 or any other provision of law, college courses in recreation, art, mathematics, and physical and social development that would enhance the education of schoolage children may be considered to meet course requirements in child development.

SEC. 2. From the funds appropriated in Schedule (b)(8) of Item 6110-196-0001 of the Budget Act of 1997, the State Department of Education shall allocate three million five hundred thousand dollars ($3,500,000) to before and after school programs for the purpose of initiating alternative literacy based programs pursuant to Section 8481 of the Education Code.

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

In order to begin before and after school programs pursuant to Section 8481 of the Education Code at the earliest possible date so that pupils will have the benefit of those programs, it is necessary that this act take effect immediately.

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## CHAPTER 918

An act to add Section 35258 to the Education Code, relating to education.

[Approved by Governor October 12, 1997. Filed with Secretary of State October 12, 1997.]

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

SECTION 1. (a) The Legislature finds and declares that, although our state has embraced technology in creating a revolution of growth, our schools have not kept pace with this technology revolution. Access to information through the use of technology has become an integral and crucial part in the decisionmaking processes of government, industry, and the home. However, our schools do not

facilitate access to information through one of the most available information technology mediums, the Internet.

(b) It is the intent of the Legislature to improve the access of parents and the community to school-based information.

SEC. 2. Section 35258 is added to the Education Code, to read:

35258. On or before July 1, 1998, each school district that is connected to the Internet shall make the information contained in the School Accountability Report Card developed pursuant to Section 35256 accessible on the Internet. The School Accountability Report Card information shall be updated annually.

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.

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## CHAPTER 919

An act to add Section 14069.6 to the Corporations Code, relating to small business, and making an appropriation therefor.

[Approved by Governor October 12, 1997. Filed with Secretary of State October 12, 1997.]

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

SECTION 1. Section 14069.6 is added to the Corporations Code, to read:

14069.6. The Trade and Commerce Agency shall contract with an entity to conduct an independent statewide assessment of capital needs in California, as they pertain to the Small Business Financial Development Corporation program established pursuant to this part, and shall establish minimum standards for the siting of corporations, and determine and rank the regions and subregions in California most underserved by the financial development corporations. The determinations and rankings shall be final upon approval of the Office of Small Business. The assessment and the establishment of standards shall be completed no later than June 30, 1998.

SEC. 2. The sum of one hundred thousand dollars ($100,000) is hereby appropriated from the General Fund for transfer to the Small Business Expansion Fund to be used by the Office of Small Business for the purpose of this act.

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## CHAPTER 920

An act to amend Sections 15814.24, 15820.13, 16731.6, 17070, 17403, and 17404 of, and to add Sections 6547.8, 17070.1, and 17096.1 to, the Government Code, relating to government finance, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 12, 1997. Filed with Secretary of State October 12, 1997.]

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

SECTION 1. Section 6547.8 is added to the Government Code, to read:

6547.8. No member of the governing body of the authority shall be personally liable on the bonds or be subject to any personal liability or accountability by reason of the issuance of bonds pursuant to this chapter.

SEC. 2. Section 15814.24 of the Government Code is amended to read:

15814.24. (a) The Superintendent of Public Instruction shall apportion state aid equal to the amount necessary for each school district to meet its energy service contract obligation determined pursuant to this chapter. It is the intent of the Legislature that these funds be appropriated annually as a part of the state's general apportionment funds for kindergarten through grade 12 schools.

(b) If a school district enters into an energy service contract with the Public Works Board pursuant to this chapter, the district shall, as a part of that energy service contract, authorize the Superintendent of Public Instruction and the Controller to withhold from its annual apportionment the amount of funds necessary to satisfy its annual energy service contract obligation to the Public Works Board. The agreement shall include authorization to withhold the additional apportionment amount and the amount determined to be the district's proportional share of the energy service contract obligation as determined pursuant to subdivision (a). The superintendent shall certify the amounts, by county, to the Controller. The Controller shall withhold the amount so reported for each county and shall, acting on behalf of each county, transfer the appropriate amount from Section A of the State School Fund to the Public Works Board for the purpose of payment of the debt service obligation for the bonds sold to finance

the projects. Any payment made from an apportionment by the Controller pursuant to this section shall be deemed to be an allocation to a school district for purposes of subdivision (b) of Section 8 of Article XVI of the California Constitution for purposes of Chapter 2 (commencing with Section 41200) of Part 24 of the Education Code.

SEC. 3. Section 15820.13 of the Government Code is amended to read:

15820.13. (a) The Legislature authorizes the use of revenue bonds and negotiable notes or negotiable bond anticipation notes to finance the construction of the Equine Drug Testing Laboratory capital outlay project on the campus of the University of California at Davis.

(b) The State Public Works Board may authorize the issuance of revenue bonds, negotiable notes, or negotiable bond anticipation notes for an amount not to exceed six million six hundred thousand dollars ($6,600,000), based on the Engineering News Record Construction Cost Index 5900, to pay the costs of constructing and equipping the laboratory, plus any additional amount necessary to cover the costs of financing the constructing and equipping of the laboratory, including interest during construction, the costs of issuing the bonds or notes, and the cost of establishing a reasonably required reserve fund.

(c) The revenue bonds, negotiable notes, or negotiable bond anticipation notes shall not be authorized for issuance by the State Public Works Board until the time the Regents of the University of California certify to the State Public Works Board and the Joint Legislative Budget Committee that there are sufficient funds available in the California Veterinary Diagnostic Laboratory System and California Center for Equine Health and Performance Account in the Fair and Exposition Fund to provide necessary rental payments from which to repay the revenue bonds, negotiable notes, or negotiable bond anticipation notes to be sold to finance the project, and until the Regents of the University of California agree to repay the outstanding debt from non-General Fund moneys if the amount of funds in the California Veterinary Diagnostic Laboratory System and California Center for Equine Health and Performance Account in the Fair and Exposition Fund are insufficient to repay any outstanding debt.

(d) Authorized total project costs shall not exceed twelve million dollars ($12,000,000) based on the Engineering News Record Construction Cost Index 5900.

(e) The difference between the authorized total project costs identified in subdivision (d) and the amount to be financed as identified in subdivision (b) is hereby appropriated from accumulated parimutuel revenues from the portion of the California Veterinary Diagnostic Laboratory System and California Center for Equine Health and Performance Account in the Fair and Exposition Fund designated for the California Veterinary Diagnostic

Laboratory System pursuant to subdivision (d) of Section 19578 of the Business and Professions Code to the board for expenditure for the purposes of this section.

(f) Any augmentation of the approved project costs shall be subject to Section 13332.11.

(g) (1) The revenue bonds, negotiable notes, or negotiable bond anticipation notes to be sold to finance this project, and the related interest and expenses, shall be repaid by rental payments for the project made to the board by the Regents of the University of California, which shall be solely funded from amounts on deposit in the portion of the California Veterinary Diagnostic Laboratory System and California Center for Equine Health and Performance Account in the Fair and Exposition Fund established pursuant to subdivision (d) of Section 19578 of the Business and Professions Code that are designated for the California Veterinary Diagnostic Laboratory System.

(2) The State of California pledges to and agrees with the holders of any revenue bonds, negotiable notes, or bond anticipation notes sold to finance this project that the state will not alter or change the structure of funding of, and deposits to, the California Veterinary Diagnostic Laboratory System and California Center for Equine Health and Performance Account or the pledge of funds for debt service, security, including any coverage factors and expenses entered into by the board pursuant to this part until the revenue bonds, negotiable notes, or negotiable bond anticipation notes sold to finance this project are fully paid or discharged or have been fully provided for in accordance with their terms. However, nothing precludes any alterations or changes if adequate provision is made by law for the protection from impairment of the contract represented by the bonds or other indebtedness, or obligations, and the right to so alter or change is hereby reserved. The board and the Regents of the University of California may include this pledge and undertaking of the state in their bonds, indentures, leases, or other documents relating to the obligations authorized in this section.

(3) Due to the exclusive source of repayment provided for in this section, all contrary provisions of this part, including, but not limited to, Sections 15848 and 15849.2, which provide for other sources and methods of payment, do not apply. Notwithstanding any other provision of law, if the amount of funds in the California Veterinary Diagnostic Laboratory System and California Center for Equine Health and Performance Account in the Fair and Exposition Fund is insufficient to repay the revenue bonds, negotiable notes, or negotiable bond anticipation notes sold to finance this project and related interest and expenses, moneys appropriated from the General Fund shall not be used as an alternative source of repayment.

(h) Revenue bonds, negotiable notes, or negotiable bond anticipation notes issued under this section shall not constitute a debt

or liability of the state, and do not constitute a pledge of the full faith and credit of the state. The issuance of bonds under this section shall not directly or indirectly or contingently obligate the state to levy or to pledge any form of taxation whatever or to make any appropriation for their payment.

(i) As an alternative to the issuance of bonds, notes, or other indebtedness by the Public Works Board, the Regents of the University of California may issue bonds, notes, or other indebtedness in order to finance the construction of the Equine Drug Testing Laboratory pursuant to this section, provided that no moneys appropriated from the General Fund shall be used to secure or repay any of the indebtedness of the regents.

SEC. 4. Section 16731.6 of the Government Code is amended to read:

16731.6. (a) Notwithstanding any other provision of this chapter, and as an alternative to the procedures set forth in Section 16731, the committee may provide for the issuance of all or part of the bonds authorized to be issued as commercial paper notes. The committee shall adopt a resolution finding that issuance of the bonds in the form of commercial paper notes is necessary and desirable, directing the Treasurer to arrange for preparation of the requisite number of suitable notes, and specifying other provisions relating to the commercial paper notes including the following:

(1) For each program of commercial paper notes authorized, the final date of maturity and the total aggregate principal amount of the commercial paper notes authorized to be outstanding at any one time up to the maturity date. The resolution may provide that the commercial paper notes may be issued and renewed from time to time until the final maturity date, and that the amount issued from time to time may be set by the Treasurer up to the maximum amount authorized to be outstanding at any one time. The resolution shall include methods of setting the dates, numbers, and denominations of the commercial paper notes. Determination of the final maturity date and total amount by the committee shall be made upon recommendation of the Treasurer to meet the needs of the state for funds, to provide the maximum benefit to potential purchasers, and to respond to the expected demand for the commercial paper notes. Notwithstanding any other provision of this chapter, whenever the committee determines to issue commercial paper notes, the committee need not comply with the requirements of Section 16732.

(2) The method of setting the interest rates and interest payment dates applicable to the commercial paper notes. Commercial paper notes may bear a state rate of interest payable only at maturity, which rate or rates may be determined at the time of sale of each unit of commercial paper notes. The rate of interest borne by the commercial paper notes shall not exceed 11 percent per annum. Notwithstanding any other provision of this chapter, whenever the

committee determines to issue commercial paper notes, the committee need not comply with the requirements of Section 16733.

(3) Any provisions for the redemption of the commercial paper notes prior to stated maturity.

(4) The technical form and language of the commercial paper notes.

(5) All other terms and conditions of the commercial paper notes and of their execution, issuance, and sale, deemed necessary and appropriate by the committee.

(b) Notwithstanding any other provision of this chapter, when the committee determines to issue commercial paper notes, all of the following shall apply:

(1) The commercial paper notes may be sold at negotiated sale at a price below the par value in a manner consistent with paragraph (2) of subdivision (a).

(2) For purposes of determining the principal amount of bonds of any voted authorization outstanding, in the case of any commercial paper notes, the principal amount deemed outstanding at any time during the term of a program of commercial paper notes shall be the maximum amount authorized in the resolution.

(3) During the term of any program of commercial paper notes, the renewal and reissuance from time to time of the commercial paper notes in an amount up to the maximum amount authorized by the resolution shall be deemed to be a refunding of the previously maturing amount, permitted by and consistent with Article 6 (commencing with Section 16780).

(4) Consistent with the intent for the General Fund to realize a savings in debt service costs when commercial paper notes are issued in place of bonds without shifting or adding financing and debt service costs to the bond funds, the state administrative costs of commercial paper and interest payable and other costs associated with commercial paper notes shall be paid for as follows:

(A) The proceeds of commercial paper notes are, notwithstanding Section 13340, continuously appropriated to pay the state administrative costs of commercial paper including, but not limited to, costs of the Treasurer's office and the Controller's office.

(B) The interest payable on maturing commercial paper notes and other costs associated with commercial paper notes not specified in paragraph (A), including, but not limited to, remarketing fees, issuing and paying agent fees, the letter or line of credit provider fees, the rating agency fees, and bond counsel fees, shall be paid from the General Fund which, notwithstanding Section 13340, is continuously appropriated to pay the interests and costs.

SEC. 5. Section 17070 of the Government Code is amended to read:

17070. Whenever any warrant issued by the Controller is unpaid for one year after it becomes payable, sufficient unapplied moneys

having been available for the payment of the warrant and for the payment of all senior obligations, the Controller shall cancel it.

SEC. 6. Section 17070.1 is added to the Government Code, to read:

17070.1. Any warrant issued prior to January 1, 1998, shall be governed by the law effective on the date of issue of the warrant. Any warrant issued on or after January 1, 1998, shall be governed by the one-year period of negotiability specified in Section 17070.

SEC. 7. Section 17096.1 is added to the Government Code, to read:

17096.1. An agency that submits a claim schedule to the State Controller's office that results in a warrant that is canceled under Section 17070 may submit a claim schedule against the fund to which the original warrant reverted pursuant to Section 17072 for two years following the date of cancellation of the original warrant.

SEC. 8. Section 17403 of the Government Code is amended to read:

17403. In any case in which the Treasurer redeems or gives credit for a warrant or check, he or she may revoke the payment or credit given by returning the warrant or check to the presenting financial institution if, upon further examination, the item is found to bear a forged, erroneous, or unauthorized endorsement or to contain any material defect or alteration. Upon this revocation, the Treasurer may deduct the amount of the item from any amount that is due or may become due to the presenting financial institution or to obtain a refund from the financial institution. This right is subject only to the requirements that the item in question be returned at the time of offset or collection and that no more than three years has elapsed since the time that the instrument was presented to the financial institution.

SEC. 9. Section 17404 of the Government Code is amended to read:

17404. Upon notification from the State Treasurer that a forged or erroneously endorsed state warrant has been charged back to the presenting financial institution, the State Controller may process a claim schedule directing payment to the original payee.

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 that the University of California may sell bonds for the construction of the Equine Drug Testing Laboratory pursuant to the provisions of this act at the earliest possible time, it is necessary that this act take effect immediately.

## CHAPTER 921

An act to amend Sections 5070.5 and 5132 of, and to add Section 5079 to, the Business and Professions Code, relating to accountancy.

[Approved by Governor October 12, 1997. Filed with
Secretary of State October 12, 1997.]

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

SECTION 1. Section 5070.5 of the Business and Professions Code is amended to read:

5070.5. Permits issued under this chapter expire at 12 midnight on the last day of the month of the legal birthday of the licensee during the second year of a two-year term if not renewed.

To renew an unexpired permit, a certificate holder or registrant shall, before the time at which the permit would otherwise expire, apply for renewal on a form prescribed by the board, pay the renewal fee prescribed by this chapter and give evidence to the board that he or she has complied with the continuing education provisions of this chapter.

SEC. 2. Section 5079 is added to the Business and Professions Code, to read:

5079. (a) Notwithstanding any other provision of this chapter, any firm lawfully engaged in the practice of public accountancy in this state may have owners who are not licensed as certified public accountants or public accountants if the following conditions are met:

(1) Nonlicensee owners shall be natural persons or entities, such as partnerships, professional corporations, or others, provided that each ultimate beneficial owner of an equity interest in that entity shall be a natural person materially participating in the business conducted by the firm or an entity controlled by the firm.

(2) Nonlicensee owners shall materially participate in the business of the firm, or an entity controlled by the firm, and their ownership interest shall revert to the firm upon the cessation of any material participation.

(3) Licensees shall in the aggregate, directly or beneficially, comprise a majority of owners, except that firms with two owners may have one owner who is a nonlicensee.

(4) Licensees shall in the aggregate, directly or beneficially, hold more than half of the equity capital and possess majority voting rights.

(5) Nonlicensee owners shall not hold themselves out as certified public accountants or public accountants.

(6) There shall be a certified public accountant or public accountant who has ultimate responsibility for each financial statement attest and compilation service engagement.

(7) Except as permitted by the board in the exercise of its discretion, a person may not become a nonlicensee owner or remain a nonlicensee owner if the person has done either of the following:

(A) Been convicted of any crime, an element of which is dishonesty or fraud, under the laws of any state, of the United States, or of any other jurisdiction.

(B) Had a professional license or the right to practice revoked or suspended for reasons other than nonpayment of dues or fees, or has voluntarily surrendered a license or right to practice with disciplinary charges or a disciplinary investigation pending, and not reinstated by a licensing agency of any state, or the United States, or of any other jurisdiction.

(8) A nonlicensee owner of a licensed firm shall report to the board in writing of the occurrence of any of the events set forth in paragraph (7) within 30 days of the date the nonlicensee owner has knowledge of the event. A conviction includes the initial plea, verdict, or finding of guilt, pleas of no contest, or pronouncement of sentence by a trial court even though that conviction may not be final or sentence actually imposed until appeals are exhausted. The report shall be signed by the nonlicensee owner and set forth the facts that constitute the reportable event. The report shall identify the event by the name of the agency or court, the title of the matter, the docket number, and the date of occurrence of the event.

(b) For purposes of this section, the following definitions apply:

(1) “Licensee” means a certified public accountant or public accountant in this state or a certified public accountant in good standing in another state.

(2) “Material participation” means an activity that is regular, continuous, and substantial.

(c) All firms with nonlicensee owners shall certify at the time of registration and renewal that the firm is in compliance with this section.

(d) The board shall adopt regulations to implement, interpret, or make specific this section.

SEC. 3. Section 5132 of the Business and Professions Code is amended to read:

5132. All moneys received by the board under this chapter from any source and for any purpose shall be accounted for and reported monthly by the board to the Controller and at the same time the moneys shall be remitted to the State Treasury to the credit of the Accountancy Fund.

The secretary-treasurer of the board shall, from time to time, but not less than once each fiscal year, prepare or have prepared on his or her behalf, a financial report of the Accountancy Fund that contains information that the board determines is necessary for the purposes for which the board was established.

The report of the Accountancy Fund, which shall be published pursuant to Section 5008, shall include the revenues and the related

costs from examination, initial licensing, license renewal, citation and fine authority, and cost recovery from enforcement actions and case settlements.

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## CHAPTER 922

An act to amend Section 15365.8 of, and to add Section 15365.13 to, the Government Code, relating to international trade, and making an appropriation therefor.

[Approved by Governor October 12, 1997. Filed with
Secretary of State October 12, 1997.]

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

SECTION 1. Section 15365.8 of the Government Code is amended to read:

15365.8. The purpose of the California Office of Export Development is to strengthen the state's activities in marketing its agricultural, manufacturing, and service industries overseas, and to help ensure that California's small and medium-sized companies have better access to foreign market opportunities. The office shall be responsible for conducting market research; disseminating trade leads; and sponsoring trade delegations, missions, marts, seminars, and other appropriate promotional events. The office shall consult with the Department of Food and Agriculture on the promotion of agricultural commodities overseas.

SEC. 2. Section 15365.13 is added to the Government Code, to read:

15365.13. (a) The Overseas Procurement Opportunities Program is hereby established within the office, for the purpose of enhancing overseas procurement opportunities for California-based businesses.

(b) The program shall do both of the following:

(1) Facilitate opportunities for California small and medium-sized companies to participate in major foreign government contracts and overseas construction projects as subcontractors and suppliers.

(2) Provide guidance and information to California companies regarding the foreign procurement process for services, supplies, and technologies.

SEC. 3. The sum of one hundred thousand dollars ($100,000) is hereby appropriated from the General Fund to the California Office of Export Development for the purposes of this act.

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# CHAPTER 923

An act to add and repeal Section 15733 of the Government Code, relating to economic development, and making an appropriation therefor.

[Approved by Governor October 12, 1997. Filed with Secretary of State October 12, 1997.]

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

SECTION 1. (a) The Legislature finds and declares the need to maximize the availability of capital to California small businesses for purposes of expansion and job creation. The need for job creation in this state is dramatically increased by the implementation of welfare reform measures that seek to move 700,000 public aid recipients into full-time employment.

(b) The Legislature finds and declares that community and economic development lenders are a source of small business financing to communities with historically lower overall access to capital. Community and economic development lenders have loans outstanding in this state totaling two hundred million dollars ($200,000,000). It will be necessary to stimulate job creation in lower income communities to broaden economic opportunities, especially for former public aid recipients.

(c) The Legislature finds and declares that the stimulation of a secondary market for community and economic development loans can significantly increase the availability of capital to small businesses with a minimal state investment. The state deems the creation of new small business capital a high priority that warrants an investment by the state to facilitate an active secondary market for community and economic development loans.

SEC. 2. Section 15733 is added to the Government Code, to read:

15733. (a) The Trade and Commerce Agency shall solicit bids from entities to evaluate the feasibility of creating a secondary market for community and economic development lenders in this state to identify outstanding loans that may be purchased and serve as collateral for the issuance of bonds.

(b) For purposes of this section, “community and economic development lenders” may include public, private, or quasi-public community development banks and credit unions, community development loan funds, microenterprise funds, community development loan funds, community development corporation-based lenders, and community and economic development venture funds.

(c) The agency shall manage the contract pursuant to its existing contract management processes and guidelines.

(d) Eligible bidders shall meet the following criteria:

(1) Bidders shall have demonstrable expertise in purchasing, packaging, and reselling loans made by community and economic development lenders.

(2) Bidders shall have or establish a business presence in this state for purposes of execution of the contract.

(e) At least a majority of loans for which contract revenues are encumbered for the issuance of collateralized bonds shall be loans originated in the state to borrowers domiciled in this state.

(f) 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. 3. The sum of two hundred thousand dollars ($200,000) is hereby appropriated from the General Fund to the Trade and Commerce Agency to carry out Section 15733 of the Government Code.

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## CHAPTER 924

An act to amend Sections 14001, 14030, 14037, 14059, 14070, and 14076 of the Corporations Code, relating to health, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 12, 1997. Filed with Secretary of State October 12, 1997.]

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

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

(a) As the Medi-Cal program transitions to managed care, it is the intent of the Legislature and the Medi-Cal managed care local initiatives to preserve access to traditional and safety net providers who have historically provided Medi-Cal services in underserved communities.

(b) Maintaining experienced traditional and safety net providers who are geographically accessible to Medi-Cal patients will ensure access to care in underserved communities, avoid unnecessary disruption in existing provider-patient relationships and on-going treatment and assist in a smooth transition to managed care.

(c) Many traditional and safety net providers do not meet the administrative or physical facility standards required of providers contracting with health plans under the state Knox-Keene Act because the Medi-Cal system historically operated on a fee-for-service basis and compliance with managed care standards was never required.

(d) Many traditional and safety net providers do not have reasonable access to conventional sources of financing to update their administrative capacity or physical facility to meet the Knox-Keene standards.

(e) It is in the public interest to provide Medi-Cal traditional and safety net providers with reasonable access to financing through existing public loan programs in order to make the changes necessary to contract with Medi-Cal managed care local initiatives.

(f) It is the intent of the Legislature that Medi-Cal managed care local initiatives inform and encourage nonprofit traditional and safety net providers to apply for loans to the California Health Facility Financing Authority HELP-II program which currently administers a loan program for nonprofit health centers.

(g) It is further the intent of the Legislature that the California Small Business Development Corporation Loan Guarantee Fund, which administers a loan guarantee program through eight nonprofit regional development corporations, give serious consideration to applications from for-profit traditional providers primarily serving Medi-Cal patients.

SEC. 2. Section 14001 of the Corporations Code is amended to read:

14001. The Legislature finds that:

(a) Unemployment in California is a matter of statewide concern requiring concerted public and private action to develop employment opportunities for the disadvantaged, youth, and unemployed persons.

(b) It is necessary to direct additional capital, general management assistance, business education, and other resources to encourage the development of small business opportunities, particularly for minority, women, and disabled persons, to alleviate unemployment.

(c) Many traditional and safety net health care providers of Medi-Cal services are in need of financial assistance to ensure their continued participation in Medi-Cal managed care networks and to preserve geographic access to quality care for individuals in underserved communities.

SEC. 3. Section 14030 of the Corporations Code is amended to read:

14030. There is hereby created in the State Treasury the Small Business Expansion Fund. All or a portion of the funds in the expansion fund may be paid out, with the approval of the Department of Finance, to lending institutions or financial companies. This fund shall be used to pay for defaulted loan guarantees issued pursuant to Section 14045, administrative costs of corporations, and those costs necessary to protect a real property interest in a defaulted loan or guarantee. The amount of guarantee liability outstanding at any one time shall not exceed four times the amount of funds on deposit in the expansion fund, including each of

the loan accounts and corporate funds within the expansion fund, unless the office has permitted a higher leverage ratio for an individual corporation pursuant to subdivision (c) of Section 14037.

SEC. 4. Section 14037 of the Corporations Code is amended to read:

14037. (a) All money deposited in the loan account is hereby appropriated, without regard to fiscal years for the purposes of this chapter. The state shall not be liable or obligated in any way beyond the state money which is allocated and deposited in the loan account from state money which is appropriated for these purposes.

(b) On and after January 1, 1997, accounts within the expansion fund for loan guarantees and surety bond guarantees, including loan loss reserves established for the purpose of paying loan defaults, shall be transferred to the small business development loan guarantee fund in the corporate fund of those corporations previously using those funds in the expansion fund to guarantee loans and surety bonds.

(c) The office may reallocate funds held within a corporation's small business development loan guarantee fund.

(1) The office shall reallocate funds based on which corporation is most effectively using its guarantee funds. If funds are withdrawn from a less effective corporation as part of a reallocation, the office shall make that withdrawal only after giving consideration to that corporation's fiscal solvency, its ability to honor loan guarantee defaults, and its ability to maintain a viable presence within the region it serves. Reallocation of funds shall occur no more frequently than once per fiscal year. Any decision made by the office pursuant to this subdivision may be appealed to the board. The board has authority to repeal or modify any decision to reallocate funds.

(2) The office may authorize a corporation to exceed the leverage ratio specified in Section 14030, subdivision (b) of Section 14070, and subdivision (a) of Section 14076 pending the annual reallocation of funds pursuant to this section.

SEC. 5. Section 14059 of the Corporations Code is amended to read:

14059. Unless delegated to its loan committee, the corporation's board of directors, upon a recommendation from its loan committee:

(a) Shall emphasize consideration to applications that will increase employment of disadvantaged, disabled, or unemployed persons, or increase employment of youth residing in areas of high youth unemployment and high youth delinquency.

(b) Shall give consideration to applications from traditional and safety-net providers of Medi-Cal services that will promote access to quality medical care for individuals enrolled in Medi-Cal managed health care networks that are contracting with or owned or operated by a county board of supervisors, a county health commission or a county health authority organized pursuant to Sections 14018.7,

14087.31, 14087.35, 14087.36, 14087.38 or 14087.9605 of the Welfare and Institutions Code.

(c) Shall not grant a loan or guarantee unless it determines that the conditions of Section 14071 are satisfied.

SEC. 6. Section 14070 of the Corporations Code is amended to read:

14070. (a) The corporate guarantee shall be backed by funds on deposit in the corporation's corporate fund.

(b) Loan guarantees shall be secured by a reserve of at least 25 percent to be determined by the director, unless the office authorizes a higher leverage ratio for an individual corporation pursuant to subdivision (c) of Section 14037.

(c) The expansion fund and corporate accounts shall be used exclusively to guarantee obligations and pay the administrative costs of the corporations. A corporation located in a rural area may utilize the funds for direct lending to farmers as long as at least 90 percent of the corporate fund farm loans, calculated by dollar amount, and all expansion fund farm loans are guaranteed by the United States Farmers Home Administration. The amount of funds available for direct farm lending shall be determined by the executive director. In its capacity as a direct lender, the corporation may sell in the secondary market the guaranteed portion of each loan so as to raise additional funds for direct lending. The agency shall issue regulations governing these direct loans, including the maximum amount of these loans.

(d) In furtherance of the purposes of this part, up to one-half of the corporate funds may be used to guarantee loans utilized to establish a Business and Industrial Development Corporation (BIDCO) under Division 15 (commencing with Section 33000) of the Financial Code.

(e) To execute the direct loan programs established in this chapter, the office may loan trust funds to a corporation located in a rural area for the express purpose of lending those funds to an identified borrower. The loan by the office to the corporation shall be on terms similar to the loan between the corporation and the borrower. The amount of the loan may be in excess of the amount of a loan to any individual farm borrower, but actual disbursements pursuant to the office loan agreement shall be required to be supported by a loan agreement between the farm borrower and the corporation in an amount at least equal to the requested disbursement. The loan between the office and the corporation shall be evidenced by a credit agreement. In the event that any loan between the corporation and borrower is not guaranteed by a governmental agency, the portion of the credit agreement attributable to that loan shall be secured by assignment of any note, executed in favor of the corporation by the borrower to the office. The terms and conditions of the credit agreement shall be similar to the loan agreement between the corporation and the borrower,

which shall be collateralized by the note between the corporation and the borrower. In the absence of fraud on the part of the corporation, the liability of the corporation to repay the loan to the office is limited to the repayment received by the corporation from the borrower except in a case where the Farmers Home Administration requires exposure by the corporation in rule or regulation. The corporation may use trust funds for loan repayment to the office if the corporation has exhausted a loan loss reserve created for this purpose. Interest and principal received by the office from the corporation shall be deposited into the same account from which the funds were originally borrowed.

(f) Upon the approval of the director, a corporation shall be authorized to borrow trust funds from the office for the purpose of relending those funds to small businesses. A corporation shall demonstrate to the director that it has the capacity to administer a direct loan program, and has procedures in place to limit the default rate for loans to startup businesses. Not more than 25 percent of any trust fund shall be used for the direct lending established pursuant to this subdivision. A loan to a corporation shall not exceed the amount of funds likely to be lent to small businesses within three months following the loan to the corporation. The maximum loan amount to a small business is fifty thousand dollars ($50,000). In the absence of fraud on the part of the corporation, the repayment obligation pursuant to the loan to the corporation shall be limited to the amount of funds received by the corporation for the loan to the small business and any other funds received from the office that are not disbursed. The corporation shall be authorized to charge a fee to the small business borrower, in an amount determined by the office pursuant to regulation. The program provided for in this subdivision shall be available in all geographic areas of the state.

SEC. 7. Section 14076 of the Corporations Code is amended to read:

14076. (a) It is the intent of the Legislature that the corporations make maximal use of their statutory authority to guarantee loans and surety bonds, including the authority to secure loans with a minimum loan loss reserve of only 25 percent, unless the office authorizes a higher leverage ratio for an individual corporation pursuant to subdivision (c) of Section 14037, so that the financing needs of small business may be met as fully as possible within the limits of corporations' loan loss reserves. The agency shall report annually to the Legislature on the financial status of the corporations and their portfolio of loans and surety bonds guaranteed.

(b) Any corporation that serves an area declared by the Governor or the President to be a disaster area on or after January 1, 1992, or the area affected by the state of emergency declared in Los Angeles on April 29, 1992, shall increase the portfolio of loan guarantees where the dollar amount of the loan is less than one hundred thousand dollars ($100,000), so that at least 15 percent of the dollar value of

loans guaranteed by the corporation is for those loans. The corporation shall comply with this requirement within one year of the date the disaster is declared, or January 1, 1995, whichever is later. Upon application of a corporation, the director may waive or modify the rule for the corporation if the corporation demonstrates that it made a good faith effort to comply and failed to locate lending institutions in the region that the corporation serves that are willing to make guaranteed loans in that amount.

SEC. 8. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to preserve access to traditional and safety net providers of health care services in underserved communities, it is necessary that this bill take effect immediately.

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## CHAPTER 925

An act to add Chapter 6 (commencing with Section 101860) to Part 4 of Division 101 of the Health and Safety Code, relating to health care.

[Approved by Governor October 12, 1997. Filed with Secretary of State October 12, 1997.]

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

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

(a) Private corporations, predominantly those organized as nonprofit corporations, currently operate more than 80 percent of the hospitals in the state in order to meet certain needs of their communities through the provision of essential health care and other services. Public recognition of the unique social status and function of these corporations has led to requirements that hospitals provide financial and other information to the state to assist in the planning and implementation of health policies in the public interest.

(b) Increasingly, operators of health care corporations, especially nonprofit corporations, have been called upon to assist the state in ensuring the availability of health care to the public by doing the following:

(1) Directly providing health care services funded by private grants, donations, and programs and by publicly funded health programs.

(2) Operating state-owned hospitals and clinics under contract.

(3) By participating in other public health programs.

(c) Hospitals and the environment in which they operate have undergone dramatic changes in response to market forces which have resulted in a variety of innovative corporate structures, partnerships, joint ventures, and equity participation arrangements.

(d) In enacting this act, the Legislature recognizes the need for state agencies to encourage private investment in support of health care services, without interfering unduly with the operations of those private corporations. The Legislature intends to ensure that certain information is made available to the public regarding the operations of certain nonprofit corporations that are uniquely designed to integrate the operations of both privately owned and state-owned health care facilities, without treating those corporations as if they were state agencies. However, the Legislature reaffirms its intent that a state agency which engages a private corporation for those purposes should take actions and conduct its deliberations openly so that the people may remain informed.

SEC. 2. Chapter 6 (commencing with Section 101860) is added to Part 4 of Division 101 of the Health and Safety Code, to read:

## CHAPTER 6. OTHER

### Article 1. Applicability and Purpose

101860. If any state agency, including a constitutional corporation, transfers to a private corporation assets for the operation of a hospital by that corporation and the value of the assets is not less than fifty million dollars ($50,000,000), the corporation shall be subject to the provisions of this chapter.

101860.5. For the purposes of this chapter, the primary public benefit purpose of the corporation is as stated in its articles of incorporation or in the bylaws of the corporation.

### Article 2. Public Meetings

101861. Meetings of the corporation shall be open and public, and all persons shall be permitted to attend, except as otherwise provided in this article.

101862. (a) As used in this article, "action taken" means a collective decision made at a meeting, including a decision upon a motion or resolution. Actions shall be taken by rollcall vote.

(b) For the purposes of this article, "meeting" means any meeting of a majority of the board of directors of the corporation and meetings of any committee exercising final decisionmaking authority delegated by the board, which committee was created by board action appointing the members of the committee. A meeting does not include a mere congregation of a majority of the directors or of a committee for purposes other than consideration of the business of the corporation or within the subject matter jurisdiction of the

committee, provided no business of the corporation is discussed. A meeting does not include any of the circumstances described in subdivision (c) of Section 54952.2 of the Government Code.

101863. (a) Agendas of the meetings shall be posted not less than 72 hours in advance of the meetings in a place freely accessible to the public. Agendas of meetings and any other writings, when distributed to all, or a majority of all, of the directors or committee members for consideration during an open session of a meeting, and which writings would otherwise be subject to disclosure pursuant to Article 4 (commencing with Section 101870), shall be made reasonably available at the meetings, or as soon thereafter as practicable upon request. However, this shall not include any writing exempt from disclosure under Article 4 (commencing with Section 101870). The agenda shall indicate the time and place of the meeting and contain a brief, general description of each item of business to be considered or acted upon at the meeting, including items to be discussed in closed session. A description generally need not exceed 20 words. Items of business not included in the posted agenda shall not be considered at a meeting; except that an item may be added to the agenda upon a determination by a two-thirds vote, or if less than two-thirds of the directors or committee members are present, an unanimous vote of those present, that there is a need to take immediate action and that the need for action came to the attention of the corporation after the agenda was posted.

(b) Agendas shall include opportunity for public comment on any item on the agenda at the meeting, subject to fair and reasonable standards determined by the board of directors to ensure that the intent of this article is carried out.

(c) Meetings shall be held at a location accessible to the public. Meetings may be held by teleconference or video teleconference, provided that during the public portions of each teleconferenced meeting, the proceedings shall be audible to the public at the locations specified in the notice of the meeting, and all votes taken shall be by rollcall. When meeting by teleconference or video teleconference, at least one of the locations specified in the notice shall be a principal place of business of the corporation, including a hospital or related facility. The board of directors may adopt reasonable rules to prevent disruption of the meetings by any person.

(d) In the case of an emergency situation involving matters upon which prompt action is necessary due to a disruption or threatened disruption of the business of the corporation, an emergency meeting may be called with less than 72 hours notice. In that event, newspapers of general circulation and radio or television stations that have previously requested, in writing, notices of meetings shall be notified, if practicable, at least one hour prior to the emergency meeting.

101864. Closed sessions of meetings may be conducted to consider, discuss, and act upon matters relating to any of the following:

(a) Collective bargaining or contract negotiations with represented and unrepresented employees, including discussion of the corporation's available funds and funding priorities, but only insofar as the discussion relates to the corporation's ability to conclude the collective bargaining agreement or contract under discussion. For the purposes of this subdivision, "employee" shall include an officer, an independent contractor who functions as an officer or an employee, a physician and surgeon or other professional with medical staff privileges at a health facility or clinic operated by the corporation, or other person exercising professional responsibilities as authorized by the corporation at a health facility or clinic operated by the corporation, but shall not include other independent contractors.

(b) The purchase or sale of securities or other investments, including investments of the corporation in endowment and pension funds.

(c) Gifts, devises, bequests, and grants.

(d) Reports of a hospital or medical audit committee or a quality assurance committee or similar reports by staff of the corporation, accreditation reports, audits, audit compliance, licensure compliance, insurance and self-insurance coverage, health care peer review reports, and quality assessments, including, but not limited to, a review of the credentials of, or the quality of care rendered by, health care providers in the facilities of the corporation, or hearings regarding the privileges of medical staff and allied health professionals.

(e) National security.

(f) Acquisition, disposition, or lease of property. However, notwithstanding any other provision of this article, no less than 10 days prior to any action on any transaction involving the acquisition, disposition, or lease of real property having a fair market value of five million dollars ($5,000,000) or more or personal property having a fair market value of ten million dollars ($10,000,000) or more that is owned by a state agency, including a constitutional corporation, the corporation shall hold an open session at which the public shall have an opportunity to comment on the proposed transaction.

(g) Pending litigation, including any adjudicatory proceeding before a court, administrative body, hearing officer, arbitrator, mediator, or other formal dispute resolution mechanism. For the purposes of this subdivision "pending" means that, based on advice of the corporation's legal counsel, there are facts and circumstances within the contemplation of the corporation that may result or has resulted in proceedings against or by the corporation, whether or not known to a potential plaintiff or plaintiffs or to a potential defendant or defendants.

(h) Evaluation, appointment, employment, performance, compensation, or dismissal of officers or employees of the corporation or its medical or professional staff, including internal adjudicatory proceedings, complaints, charges, investigations, and hearings. For the purposes of this subdivision, the term "employee" shall include an officer, an independent contractor who functions as an officer or performs functions traditionally performed by an employee, a physician and surgeon or other professional with medical staff privileges at a health facility or clinic operated by the corporation, or other person exercising professional responsibilities as authorized by the corporation at a health facility or clinic operated by the corporation, but shall not include any member of the board of directors, as such, or other independent contractors. The term "employee" shall also include a chief executive officer or other employee of the corporation who is an ex officio member of the board of directors.

(i) Consideration of the appointment or reappointment of directors to the board of the corporation.

(j) The terms and conditions of contracts for the provision of health care services, including compliance with regulatory conditions thereof, with governmental and nongovernmental insurers, health care providers, health plans, third-party administrators, management services organizations, self-insured employers, medical groups, and payers or any other portion of contract negotiations, impressions, opinions, recommendations, meeting minutes, research, work product, theories or strategy, or instructions or advice to employees.

(k) Charges or complaints from a member enrolled in a health plan or any affiliated provider of health care services.

(*l*) Any trade secret as defined in subdivision (d) of Section 3426.1 of the Civil Code.

(m) Any item that cannot be discussed in open session without revealing information prohibited or exempted from public disclosure by any provision of state or federal law applicable to any governmental hospital, or any state or federal statute applicable to a nongovernmental hospital, including, but not limited to, provisions of the Evidence Code relating to privilege. Prior to holding any closed session under this subdivision, the provision of state or federal law shall be publicly identified, where applicable.

101865. (a) Prior to holding any closed session, the agenda item or items to be discussed in the closed session shall be publicly identified. An item may be identified by reference to the item or items as they are listed by number or letter on the agenda. In a closed session, only those matters covered in the statement may be considered. Nothing in this article shall require or authorize a disclosure of information prohibited by state or federal law.

(b) The corporation shall designate an officer or officers who shall attend each closed session of the board or a committee and keep a

minute book of the session. The minute book may, but need not, consist of a recording of the closed session. The minute book is not a public record subject to Section 101871 and shall be kept confidential. The minute book shall be available only to members of the board or committee or, if a violation of this chapter is alleged to have occurred at a closed session, to a court of general jurisdiction wherein the corporation lies.

(c) After any closed session, the board or committee shall reconvene into open session prior to adjournment and shall make any disclosures required by subdivision (d) of action in the closed session. Announcements required to be made in open session pursuant to this article shall be made at the location announced in the agenda for the closed session.

(d) Any action taken during a closed session of a meeting shall be announced publicly, including the vote or abstention of every director present, as follows:

(1) Approval of an agreement concluding property negotiations pursuant to subdivision (f) of Section 101864 shall be reported after the agreement is final, as specified below:

(A) If its own approval renders the agreement final, the corporation shall report that approval and the substance of the agreement in open session at the meeting during which the closed session is held.

(B) If final approval rests with the other party to the negotiations, the corporation shall disclose the fact of that approval and the substance of the agreement upon inquiry by any person, as soon as the other party or its agent has informed the corporation of its approval.

(2) Approval given to its legal counsel of a settlement of pending litigation, as described in subdivision (g) of Section 101864, at any stage prior to or during a judicial or quasi-judicial proceeding shall be reported after the settlement is final, as specified below:

(A) If the corporation accepts a settlement offer signed by the opposing party, the body shall report its acceptance and identify the substance of the agreement in open session at the meeting during which the closed session is held.

(B) If final approval rests with some other party to the litigation or with the court, then as soon as the settlement becomes final, and upon inquiry by any person, the corporation shall disclose the fact of that approval, and identify the substance of the agreement.

(3) Approval of an agreement concluding collective bargaining or contract negotiations with represented or unrepresented employees pursuant to subdivision (a) of Section 101864 shall be reported after the agreement is final and has been accepted or ratified by the other party. The report shall identify the item approved and the other party or parties to the negotiation.

101866. Announcements that are required to be made pursuant to this article may be made orally or in writing. Any contracts,

settlement agreements, or other documents that are finally approved or adopted in the closed session and are subject to an announcement pursuant to this article shall be records subject to disclosure in accordance with Article 4 (commencing with Section 101870). However, nothing in this section shall require the announcement or disclosure of records that would impair the corporation's ability to accomplish its primary public benefit purposes either by depriving the corporation of a material or competitive economic benefit, or exposing the corporation to a material competitive or economic risk.

Article 3. Enforcement of Public Meetings

101868. (a) Any interested person may institute proceedings for injunctive or declaratory relief or writ of mandate in any court of competent jurisdiction for the purpose of stopping or preventing violations or threatened violations of Article 2 (commencing with Section 101861) by the corporation. In addition, the corporation may institute proceedings for declaratory relief, or validation of its policy or policies under Article 2 (commencing with Section 101861). In the event the corporation institutes proceedings, the corporation shall give written notice, to the person or persons with an interest in the corporation's compliance with Article 2 (commencing with Section 101861), of the right to participate in the proceedings.

(b) Any interested person, including a corporation subject to this chapter may institute proceedings for injunctive or declaratory relief or mandate in any court of competent jurisdiction for the purpose of obtaining a judicial determination as to whether an action taken by the corporation was in violation of Article 2 (commencing with Section 101861). In the event the corporation institutes proceedings, the corporation shall give written notice, to the person or persons with an interest in the corporation's compliance with Article 2 (commencing with Section 101861), of the right to participate in the proceedings.

(c) Any action seeking a judicial determination under this section shall be commenced within 30 days from the date the action was taken. Nothing in this section shall be construed to prevent the corporation from curing or correcting an action that is subject to review pursuant to this section. The fact that the corporation takes a subsequent action to cure or correct an action taken pursuant to this section shall not be construed or admissible as evidence of a violation of this chapter. Nothing in this section shall permit discovery of communications that are protected by the attorney-client privilege.

(d) An action shall not be determined to be null and void if any of the following conditions exist:

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

(2) The action taken gave rise to a contractual obligation.

(3) The action taken was in substantial compliance with this chapter.

(4) Invalidation of the action taken would substantially impair the corporation's ability to accomplish its primary public benefit purposes by wither depriving the corporation of a material competitive or economic benefit, or exposing the corporation to a material competitive or economic risk.

Article 4. Records To Be Available

101870. For the purposes of this article:

(a) "Person" includes any natural person, corporation, partnership, limited liability company, firm, or association.

(b) "Records" includes any writing containing information relating to the conduct of the corporation's business prepared, owned, used, or retained by the corporation regardless of physical form or characteristics. "Records" does not include any records transferred from any private nonprofit corporation that is a member or predecessor of the corporation that were created prior to the transfer of assets for the operation of a hospital by the corporation.

(c) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording upon any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums, and other documents.

101871. (a) Records of the corporation shall be available to the public for inspection or copying upon a request in writing, submitted to the principal office of the corporation, which reasonably identifies the particular records sought to be disclosed, unless it is impracticable for an exact copy to be provided. Computer data shall be provided in a form determined by the corporation. The corporation shall adopt policies consistent with this article stating the procedures to be followed when making its records available under this article and identifying the officers or employees of the corporation responsible for the administration of these policies, and shall make these policies available to the public for inspection upon request during normal business hours.

(b) The corporation shall determine within 10 working days after receipt of a request whether to comply with the request, and shall immediately notify the person making the request of the determination and identify the provision of this article or other provision of law that is the basis for withholding any record. Access to records requested, or copies thereof, shall be provided promptly after the corporation determines it will comply with the request. The corporation may extend the time limit for making a determination for up to an additional 15 working days by giving written notice to the

requester when an extension is necessary to permit the corporation to do any of the following:

(1) To search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request.

(2) To search for, collect, and appropriately examine a voluminous amount of separate and distinct records that are demanded in a single request.

(3) To consult with another person having a substantial interest in the determination of the request.

(4) To permit a determination to be made under this subdivision.

(c) Notices provided and requests made under this article shall be made available to the public.

(d) The corporation may establish reasonable charges for the costs of complying with this article, not to exceed the actual cost of duplication.

101872. Nothing in this article shall be construed to require disclosure of any of the following:

(a) Contracts, business and marketing strategies, financial information, and any other competitive and strategic information, disclosure of which would impair the corporation's ability to accomplish its primary public benefit purposes by depriving the corporation of a material or competitive economic benefit or exposing the corporation to a material competitive or economic risk.

(b) Records that relate to the terms and conditions of contracts for the provision of health care services, including compliance with regulatory conditions thereof, with governmental and nongovernmental insurers, health care providers, health plans, third-party administrators, management services organizations, self-insured employers, medical groups, and payers or any other portion of contract negotiations, impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy, or instructions or advice to employees.

(c) Records that relate to reports of a hospital or medical audit committee or a quality assurance committee or similar reports by staff of the corporation, accreditation reports, audits, audit compliance, licensure compliance, insurance and self-insurance coverage, health care peer review reports, and quality assessments, including, but not limited to, a review of the credentials of, or the quality of care rendered by, health care providers in the facilities of the corporation, or hearings regarding medical staff privileges.

(d) Records the disclosure of which is exempted or prohibited pursuant to any provision of state or federal law applicable to any governmental hospital, or any state or federal statute applicable to a nongovernmental hospital, including, but not limited to, provisions of the Evidence Code relating to privilege. The corporation shall identify the provision of law restricting disclosure when relying upon this exemption.

(e) Real estate appraisals or engineering or feasibility estimates related to the acquisition or disposition of property or related to supply and construction contracts, and until all of the contracted property, supplies, or construction work is obtained. This exemption from disclosure shall continue until these contracts are final and agreed to by all parties to the contracts.

(f) Records that relate to collective bargaining or contract negotiations with represented and unrepresented employees including discussions of the corporation's available funds and funding priorities, but only insofar as these discussions relate to the corporation's ability to conclude the collective bargaining agreement or contract under discussion. For the purposes of this subdivision, "employee" shall include an officer, an independent contractor who functions as an officer or an employee, a physician and surgeon or other medical professional with medical staff privileges at a health facility or clinic operated by the corporation, or other person exercising professional responsibilities as authorized by the corporation at a health facility or clinic operated by the corporation, but shall not include other independent contractors.

(g) Medical, personnel, or similar files, the disclosure of which would constitute an invasion of privacy of an employee, officer, customer, or patient of the corporation, including, but not limited to, home addresses, billing records, salaries, and employment contracts.

(h) Records provided by potential employees, contractors, physicians and surgeons, or other persons for the use or consideration of the corporation under a reasonable belief that the corporation would treat the records supplied as confidential, including financial statements and proprietary information. A reasonable belief may be, but need not be, supported by a written agreement.

(i) Library circulation records.

(j) Any trade secret as defined in subdivision (d) of Section 3426.1 of the Civil Code.

(k) Records relating to the purchase or sale of securities or other investments, including investments of the corporation in endowments and pension funds.

(*l*) Records relating to gifts, devises, bequests, and grants.

(m) Charges or complaints from a member enrolled in a health plan or any affiliated provider of health care services.

(n) Any record not otherwise expressly exempt from disclosure under this article if it impairs the corporation's ability to accomplish its primary public benefit purposes by either depriving the corporation of a material competitive or economic benefit, or exposing the corporation to a material competitive or economic risk.

101873. Notwithstanding any other provision of law, whenever at least one member of the members of the corporation is itself a state agency, including a constitutional corporation, the obligations of that member of the corporation to make records available to the public shall, with respect to any records received from or created by the

corporation, be limited to those obligations contained in this article, provided that if a record otherwise subject to this article is distributed to a majority of the members of the governing body of a state agency, including a constitutional corporation, for consideration at a public meeting of that agency in open session in connection with an item of business on the agency's meeting agenda, such a record shall be made available to the public in accordance with the laws applicable to that agency. Nothing in this article is intended to prohibit any member from making information available to the public.

Article 5. Enforcement of the Disclosure of Records

101875. (a) Any person may institute proceedings for injunctive or declarative relief or writ of mandate in any court of competent jurisdiction to enforce his or her right to inspect or to receive a copy of any record or class of records under this chapter. In addition, the corporation may institute proceedings for declaratory relief or validation of its policy or policies under this article, or elect to interplead the records sought to be disclosed. In the event the corporation institutes proceedings or interpleads records, the corporation shall give written notice, to the person or persons with an interest in disclosure or nondisclosure of the records, of the right to participate in the proceedings. The times for responsive pleadings and for hearings in these proceedings shall be set by the judge of the court with the object of securing a decision as to these matters at the earliest possible time.

(b) Whenever it is made to appear by verified petition to the superior court of the county where the records or some part thereof are situated that certain records are being improperly withheld from disclosure, the court shall order the officer or person charged with withholding the records to disclose the record or show cause why he or she should not do so. The court shall decide the case after examining the record in camera, if permitted by subdivision (b) of Section 915 of the Evidence Code, papers filed by the parties and any oral argument, and additional evidence as the court may allow.

(c) If the court finds that the corporation's decision to refuse disclosure is not justified under Article 4 (commencing with Section 101870), the court shall order the corporation to make the record available. If the judge determines that the corporation was justified in refusing to make the record available, he or she shall return the item to the corporation without disclosing its content with an order supporting the decision refusing disclosure.

(d) An order of the court, either directing disclosure by the corporation or supporting the decision of the corporation refusing disclosure, is not a final judgment or order within the meaning of Section 904.1 of the Code of Civil Procedure from which an appeal may be taken, but shall be immediately reviewable by petition to the appellate court for the issuance of an extraordinary writ. Upon entry

of any order pursuant to this section, a party shall, in order to obtain review of the order, file a petition within 20 days after service upon him or her of a written notice of entry of the order, or within such further time not exceeding an additional 20 days as the trial court may for good cause allow. If the notice is served by mail, the period within which to file the petition shall be increased by five days. A stay of an order or judgment shall not be granted unless the petitioning party demonstrates it will otherwise sustain irreparable damage and probable success on the merits. Any person who fails to obey the order of the court shall be cited to show cause why he or she is not in contempt of court.

## Article 6. Application

101878. It is the intent of the Legislature that the provisions of this chapter shall apply retroactively to all of the records of any corporation to which this chapter applies, as of the effective date of this chapter, notwithstanding that this chapter was not in effect at the time the corporation created or obtained those records.

101879. It is also the intent of the Legislature that the provisions of this chapter regarding the holding of meetings of a corporation shall apply prospectively, so that any meetings held by the corporation prior to the effective date hereof shall not be deemed to have been in contravention of this chapter.

101880. The Legislature finds and declares that a corporation subject to this chapter shall continue to be private, notwithstanding this chapter, and in any event, shall not be subject to the provisions of the Government Code or the Education Code made applicable to any public agency, or any public or constitutional corporation, generally, or collectively. Nothing in this chapter grants any authority to any person, including any public agency or constitutional corporation, to establish a corporation to which this chapter applies.

101881. This chapter shall be inapplicable to any corporation in a county of the 2nd class.

SEC. 3. The Legislature finds and declares all of the following:

(a) The directors, officers, and employees of any corporation to which Chapter 6 (commencing with Section 101860) of Part 4 of Division 101 of the Health and Safety Code applies would not be confronted with the type of conflicts of interest comprehended by the Political Reform Act of 1974 (Title 9 (commencing with Section 81000) of the Government Code) and would have no opportunity to participate in the making of any governmental decisions.

(b) The directors, officers, and employees of any corporation to which Chapter 6 (commencing with Section 101860) of Part 4 of Division 101 of the Health and Safety Code applies would be pursuing the common interests of the members of the corporation, and as such, are not subject to regulation under the Political Reform Act of 1974

(Title 9 (commencing with Section 81000) of the Government Code) under the analysis of In re Sherwood, 2 FPPC Op. 168 (12/15/76).

(c) Application of the Political Reform Act of 1974 (Title 9 (commencing with Section 81000) of the Government Code) to any corporation to which Chapter 6 (commencing with Section 101860) of Part 4 of Division 101 of the Health and Safety Code applies would erode public support for that act by inappropriately impairing the achievement of improved health care and access that such a corporation provides and impeding the goal of increasing private financial support for medical education and research. The application of the Political Reform Act of 1974 would deprive the corporation of the services of the best and most knowledgeable individuals from the private sector in a competitive marketplace in which competitors face no comparable restrictions.

SEC. 4. Notwithstanding the findings contained in Section 3, in order to eliminate any uncertainty as to the status of the corporation, and maintain support for the Political Reform Act of 1974 (Title 9 (commencing with Section 81000) of the Government Code), it is in the best interests of the people of the State of California, and in furtherance of the purposes of the Political Reform Act of 1974, that this act shall not take effect unless enacted pursuant to the procedures set forth in Section 81012 of the Government Code.

SEC. 5. Any action brought to interpret or challenge the validity of any provision of Chapter 6 (commencing with Section 101860) of Part 4 of Division 101 of the Health and Safety Code or any other provision of this act shall be set for trial at the earliest possible time and, notwithstanding any other provision of law, shall take precedence over all other cases, except older matters of the same character.

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## CHAPTER 926

An act to amend Sections 11475.8 and 15200.85 of, to add Sections 15200.75, 15200.81, 15200.92, and 15200.96 to, to repeal Sections 15200.8 and 15200.9 of, and to repeal and add Section 15200.91 of, the Welfare and Institutions Code, relating to human services.

[Approved by Governor October 12, 1997. Filed with Secretary of State October 12, 1997.]

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

SECTION 1. Section 11475.8 of the Welfare and Institutions Code is amended to read:

11475.8. (a) The Legislature finds and declares all of the following:

(1) The Legislative Analyst has found that county child support enforcement programs provide a net increase in revenues to the state.

(2) The state has a fiscal interest in ensuring that county child support enforcement programs perform efficiently.

(3) The state does not provide information to counties on child support enforcement programs, based on common denominators that would facilitate comparison of program performance.

(4) Providing this information would allow county officials to monitor program performance and to make appropriate modifications to improve program efficiency.

(5) This information is required for effective management of the child support program.

(b) (1) Except as provided in paragraph (2), commencing with the 1998–99 fiscal year, and for each fiscal year thereafter, each county that is participating in the state incentive program described in Section 15200.81 shall provide to the department, and the department shall compile from this county child support information, quarterly and annually, all of the following performance-based data, as established by the federal incentive funding system, provided that the department may revise the data required by this paragraph in order to conform to the final federal incentive system data definitions:

(A) One of the following data relating to paternity establishment, as required by the department, provided that the department shall require all counties to report on the same measurement:

(i) The total number of children in the caseload governed by Subtitle D (commencing with Section 450) of Title IV of the federal Social Security Act (42 U.S.C. Sec. 650 et seq.), as of the end of the federal fiscal year, who were born to unmarried parents for whom paternity was established or acknowledged, and the total number of children in that caseload, as of the end of the preceding federal fiscal year, who were born to unmarried parents.

(ii) The total number of minor children who were born in the state to unmarried parents for whom paternity was established or acknowledged during a federal fiscal year, and the total number of children in the state born to unmarried parents during the preceding federal fiscal year.

(B) The number of cases governed by Subtitle D (commencing with Section 450) of Title IV of the federal Social Security Act (42 U.S.C. Sec. 650 et seq.) during the federal fiscal year and the total number of those cases with support orders.

(C) The total dollars collected during the federal fiscal year in cases governed by Subtitle D (commencing with Section 450) of Title IV of the federal Social Security Act (42 U.S.C. Sec. 650 et seq.) and the total number of dollars owing during that federal fiscal year in cases governed by those provisions.

(D) The total number of cases for the federal fiscal year governed by Subtitle D (commencing with Section 450) of Title IV of the federal Social Security Act (42 U.S.C. Sec. 650 et seq.) in which payment was being made toward child support arrearages and the total number of cases for that fiscal year governed by these federal provisions that had child support arrearages.

(E) The total number of dollars collected and expended during a federal fiscal year in cases governed by Subtitle D (commencing with Section 450) of Title IV of the federal Social Security Act (42 U.S.C. Sec. 650 et seq.).

(F) The total amount of child support dollars collected during a federal fiscal year, and, if and when required by federal law, the amount of these collections broken down by collections distributed on behalf of current recipients of federal Temporary Assistance for Needy Families block grant funds or federal foster care funds, on behalf of former recipients of federal Temporary Assistance for Needy Families block grant funds or federal foster care funds, or on behalf of persons who are not recipients of these federal funds.

(2) A county may apply for an exemption from any or all of the reporting requirements of paragraph (1) for the 1998–99 state fiscal year or any quarter of that fiscal year, as well as for the first quarter of the 1999–2000 fiscal year, by submitting an application for the exemption to the department at least three months prior to the commencement of the fiscal year or quarter for which the exemption is sought. A county shall provide a separate justification for each data element under paragraph (1) for which the county is seeking an exemption and the cost to the county of providing the data. The department may not grant an exemption for more than one year. The department may grant a single exemption only if both of the following conditions are met:

(A) The county cannot compile the data being sought through its existing automated system or systems.

(B) The county cannot compile the data being sought through manual means or through an enhanced automated system or systems without significantly harming the child support collection efforts of the county.

(c) Except as provided in paragraph (6), before implementation of the state child support computers, the Statewide Automated Child Support System (SACSS) or its equivalent, and the Los Angeles Automated Child Support Enforcement Replacement System (ARS), in addition to the information required by subdivision (b), the department shall collect, on a monthly basis, from each county that is participating in the state incentive program described in Section 15200.81, information on the county child support enforcement program beginning with the 1998–99 fiscal year, and for each subsequent fiscal year, and shall report quarterly and annually on all of the following measurements:

(1) For each of the following support collection categories, the number of cases with support collected shall include only the number of cases actually receiving a collection, not the number of payments received. For purposes of determining the number of cases with an order of current support and the number of cases in which current support is being collected, cases with a medical support order that do not have an order for current support shall not be counted.

(A) The number of cases with an order for current support.

(B) The number of cases with collections of current support.

(C) The number of cases with an order for arrears.

(D) The number of cases with arrears collections.

(2) The number of alleged fathers or obligors who were served with a summons and complaint to establish paternity or a support order. In order to be counted under this paragraph, the alleged father or obligor shall be successfully served with process. An alleged father shall be counted under this paragraph only once if he is served with process simultaneously for both a paternity and a support order proceeding for the same child or children. For purposes of this paragraph, a support order shall include a medical support order.

(3) The number of children requiring paternity establishment and the number of children for whom paternity has been established during the period. Paternity may only be established once for each child. Any child for whom paternity is not at issue shall not be counted in the number of children for whom paternity has been established. For this purpose, paternity is not at issue if the parents were married and neither parent challenges paternity or a voluntary paternity declaration has been executed by the parents prior to the county child support enforcement program obtaining the case and neither parent challenges paternity.

(4) The number of cases requiring that a support order be established and the number of cases that had a support order established during the period. A support order shall be counted as established only when the appropriate court has issued an order for child support, including an order for temporary child support, or an order for medical support.

(5) The total cost of administering the county child support enforcement program, including the federal, state, and county share of the costs, and the federal and state incentives received by each county. The total cost of administering the program shall be broken down by the following:

(A) The direct costs of the program, broken down further by total employee salaries and benefits, a list of the number of employees broken down into at least the following categories: attorneys, administrators, caseworkers, investigators, and clerical support; contractor costs; space charges; and payments to other county agencies. Employee salaries and numbers need only be reported in the annual report.

(B) The indirect costs, showing all overhead charges.

(6) A county may apply for an exemption from any or all of the reporting requirements of this subdivision for a fiscal year by submitting an application for the exemption to the department at least three months prior to the commencement of the fiscal year or quarter for which the exemption is sought. A county shall provide a separate justification for each data element under this subdivision for which the county is seeking an exemption and the cost to the county of providing the data. The department may not grant an exemption for more than one year. The department may grant a single exemption only if both of the following conditions are met:

(A) The county cannot compile the data being sought through its existing automated system or systems.

(B) The county cannot compile the data being sought through manual means or through an enhanced automated system or systems without significantly harming the child support collection efforts of the county.

(d) After implementation of the state child support computers, SACSS or its equivalent, and ARS, in addition to the information required by subdivision (b), the department shall collect, on a monthly basis, from each county that is participating in the state incentive program described in Section 15200.81, information on the county child support enforcement program beginning with the 1998–99 fiscal year or a later fiscal year, as appropriate, and for each subsequent fiscal year, and shall report quarterly and annually on all of the following measurements:

(1) For each of the following support collection categories, the number of cases with support collected shall include only the number of cases actually receiving a collection, not the number of payments received.

(A) (i) The number of cases with collections for current support.

(ii) The number of cases with arrears collections only.

(iii) The number of cases with both current support and arrears collections.

(B) For cases with current support only due.

(i) The number of cases in which the full amount of current support owed was collected.

(ii) The number of cases in which some amount of current support, but less than the full amount of support owed, was collected.

(iii) The number of cases in which no amount of support owed was collected.

(C) For cases in which arrears only were owed:

(i) The number of cases in which all arrears owed were collected.

(ii) The number of cases in which some amount of arrears, but less than the full amount of arrears owed, were collected.

(iii) The number of cases in which no amount of arrears owed were collected.

(D) For cases in which both current support and arrears are owed:

(i) The number of cases in which the full amount of current support and arrears owed were collected.

(ii) The number of cases in which some amount of current support and arrears, but less than the full amount of support owed, were collected.

(iii) The number of cases in which no amount of support owed was collected.

(E) The total number of cases in which an amount was due for current support only.

(F) The total number of cases in which an amount was due for both current support and arrears.

(G) The total number of cases in which an amount was due for arrears only.

(H) For cases with current support due, the number of cases without orders for medical support and the number of cases with an order for medical support.

(2) The number of alleged fathers or obligors who were served with a summons and complaint to establish paternity or a support order, and the number of alleged fathers or obligors for whom it is required that paternity or a support order be established. In order to be counted under this paragraph, the alleged father or obligor shall be successfully served with process. An alleged father shall be counted under this paragraph only once if he is served with process simultaneously for both a paternity and a support order proceeding for the same child or children. For purposes of this paragraph, a support order shall include a medical support order.

(3) The number of new asset seizures or successful initial collections on a wage assignment for purposes of child support collection. For purposes of this paragraph, a collection made on a wage assignment shall be counted only once for each wage assignment issued.

(4) The number of children requiring paternity establishment and the number of children for whom paternity has been established during the period. Paternity may only be established once for each child. Any child for whom paternity is not at issue shall not be counted in the number of children for whom paternity has been established. For this purpose, paternity is not at issue if the parents were married and neither parent challenges paternity or a voluntary paternity declaration has been executed by the parents prior to the county child support enforcement program obtaining the case and neither parent challenges paternity.

(5) The number of cases requiring that a support order be established and the number of cases that had a support order established during the period. A support order shall be counted as established only when the appropriate court has issued an order for child support, including an order for temporary child support, or an order for medical support.

(6) The total cost of administering the county child support enforcement program, including the federal, state, and county share of the costs and the federal and state incentives received by each county. The total cost of administering the program shall be broken down by the following:

(A) The direct costs of the program, broken down further by total employee salaries and benefits, a list of the number of employees broken down into at least the following categories: attorneys, administrators, caseworkers, investigators, and clerical support; contractor costs; space charges; and payments to other county agencies. Employee salaries and numbers need only be reported in the annual report.

(B) The indirect costs, showing all overhead charges.

(7) The total child support collections due, broken down by current support, interest on arrears, and principal, and the total child support collections that have been collected, broken down by current support, interest on arrears, and principal.

(8) The actual case status for all cases in the county child support enforcement program. Each case shall be reported in one case status only. If a case falls within more than one status category, it shall be counted in the first status category of the list set forth below in which it qualifies. The following shall be the case status choices:

(A) No support order, location of obligor parent required.

(B) No support order, alleged obligor parent located and paternity required.

(C) No support order, location and paternity not an issue but support order must be established.

(D) Support order established with current support obligation and obligor is in compliance with support obligation.

(E) Support order established with current support obligation, obligor is in arrears and location of obligor is necessary.

(F) Support order established with current support obligation, obligor is in arrears, and location of obligor's assets is necessary.

(G) Support order established with current support obligation, obligor is in arrears and no location of obligor or obligor's assets is necessary.

(H) Support order established with current support obligation, obligor is in arrears, the obligor is located, but the district attorney has established satisfactorily that the obligor has no income or assets and no ability to earn.

(I) Support order established with current support obligation and arrears, obligor is paying the current support and is paying some or all of the interest on the arrears, but is paying no principal.

(J) Support order established for arrears only and obligor is current in repayment obligation.

(K) Support order established for arrears only, obligor is not current in arrears repayment schedule and location of obligor is required.

(L) Support order established for arrears only, obligor is not current in arrears repayment schedule and location of obligor's assets is required.

(M) Support order established for arrears only, obligor is not current in arrears repayment schedule, and no location of obligor or obligor's assets is required.

(N) Support order established for arrears only, obligor is not current in arrears repayment, and the obligor is located, but the district attorney has established satisfactorily that the obligor has no income or assets and no ability to earn.

(O) Support order established for arrears only and obligor is repaying some or all of the interest, but no principal.

(P) Other, if necessary, to be defined in the regulations promulgated under subdivision (e).

(e) Upon implementation of the SACSS or its equivalent, and ARS, or at such time as the department determines that compliance with this subdivision is possible, each county that is participating in the state incentive program described in Section 15200.81 shall collect and report, and the department shall compile for each participating county, information on the county child support program in each fiscal year, all of the following data, in a manner that facilitates comparison of counties and the entire state, except that the department may eliminate or modify the requirement to report any data mandated to be reported pursuant to this subdivision if the department determines that the district attorneys are unable to accurately collect and report the information or that collecting and reporting of the data by the district attorneys will be onerous:

(1) The number of alleged obligors or fathers who receive CalWORKs benefits, food stamp benefits, and Medi-Cal benefits.

(2) The number of obligors or alleged fathers who were in state prison or county jail.

(3) The number of obligors or alleged fathers who do not have a social security number.

(4) The number of obligors or alleged fathers whose address is unknown.

(5) The number of obligors or alleged fathers whose complete name, consisting of at least a first and last name, is not known by the county district attorney's office.

(6) The number of obligors or alleged fathers who filed a tax return with the Franchise Tax Board in the last year for which a data match is available.

(7) The number of obligors or alleged fathers who have no income reported to the Employment Development Department during the third quarter of the fiscal year.

(8) The number of obligors or alleged fathers who have income between one dollar ($1) and five hundred dollars ($500) reported to the Employment Development Department during the third quarter of the fiscal year.

(9) The number of obligors or alleged fathers who have income between five hundred one dollars ($501) and one thousand five hundred dollars ($1,500) reported to the Employment Development Department during the third quarter of the fiscal year.

(10) The number of obligors or alleged fathers who have income between one thousand five hundred one dollars ($1,501) and two thousand five hundred dollars ($2,500) reported to the Employment Development Department during the third quarter of the fiscal year.

(11) The number of obligors or alleged fathers who have income between two thousand five hundred one dollars ($2,501) and three thousand five hundred dollars ($3,500) reported to the Employment Development Department during the third quarter of the fiscal year.

(12) The number of obligors or alleged fathers who have income between three thousand five hundred one dollars ($3,501) and four thousand five hundred dollars ($4,500) reported to the Employment Development Department during the third quarter of the fiscal year.

(13) The number of obligors or alleged fathers who have income between four thousand five hundred one dollars ($4,501) and five thousand five hundred dollars ($5,500) reported to the Employment Development Department during the third quarter of the fiscal year.

(14) The number of obligors or alleged fathers who have income between five thousand five hundred one dollars ($5,501) and six thousand five hundred dollars ($6,500) reported to the Employment Development Department during the third quarter of the fiscal year.

(15) The number of obligors or alleged fathers who have income between six thousand five hundred one dollars ($6,501) and seven thousand five hundred dollars ($7,500) reported to the Employment Development Department during the third quarter of the fiscal year.

(16) The number of obligors or alleged fathers who have income between seven thousand five hundred one dollars ($7,501) and nine thousand dollars ($9,000) reported to the Employment Development Department during the third quarter of the fiscal year.

(17) The number of obligors or alleged fathers who have income exceeding nine thousand dollars ($9,000) reported to the Employment Development Department during the third quarter of the fiscal year.

(18) The number of obligors or alleged fathers who have two or more employers reporting earned income to the Employment Development Department during the third quarter of the fiscal year.

(19) The number of obligors or alleged fathers who receive unemployment benefits during the third quarter of the fiscal year.

(20) The number of obligors or alleged fathers who receive state disability benefits during the third quarter of the fiscal year.

(21) The number of obligors or alleged fathers who receive workers' compensation benefits during the third quarter of the fiscal year.

(22) The number of obligors or alleged fathers who receive Social Security Disability Insurance benefits during the third quarter of the fiscal year.

(23) The number of obligors or alleged fathers who receive Supplemental Security Income/State Supplementary Program for the Aged, Blind, and Disabled benefits during the third quarter of the fiscal year.

(f) The department, in consultation with the Legislative Analyst's office, the Judicial Council, the California Family Support Council, and child support advocates, shall develop regulations to ensure that all county child support enforcement programs report the data required by this section uniformly and consistently throughout California.

(g) The department shall provide the information for all participating counties for the 1998–99 fiscal year to each member of a county board of supervisors, county executive officer, district attorney, and the appropriate policy committees and fiscal committees of the Legislature by December 31, 1999. The department shall provide the information for each subsequent fiscal quarter and fiscal year no later than three months following the end of the fiscal quarter and no later than nine months following the end of the fiscal year. The department shall present the information in a manner that facilitates comparison of county performance.

(h) For purposes of this section, "case" means a noncustodial parent, whether mother, father, or putative father, who is, or eventually may be, obligated under law for support of a child or children. For purposes of this definition, a noncustodial parent shall be counted once for each family that has a dependent child he or she may be obligated to support.

(i) This section shall be operative only for as long as Section 15200.92 requires participating counties to report data to the department.

SEC. 2. Section 15200.75 is added to the Welfare and Institutions Code, to read:

15200.75. (a) The department shall assess on at least an annual basis each county's compliance with federal and state child support laws and regulations in effect for the time period being reviewed, using a statistically valid sample of cases. The information for the assessment shall be based on reviews conducted by either state or county staff, as determined by the department.

(1) A county shall be eligible for the state incentives under Section 15200.81 only if the department determines that the county is in compliance with all federal and state laws and regulations or if the county has a corrective action plan in place that has been certified by the department pursuant to this subdivision. If a county is determined not to be in compliance, the county may develop and submit a corrective action plan to the department. The department shall certify a corrective action plan if the department determines

that the plan will put the county into compliance with federal and state laws and regulations and the county remains in compliance with the corrective action plan. A county shall be eligible for state incentives under Section 15200.81 only for any quarter the county remains in compliance with a corrective action plan that has been certified by the department.

(2) Counties under a corrective action plan shall be assessed on a quarterly basis until the department determines that they are in compliance with federal and state child support program requirements.

(b) The department shall collect information regarding whether cases on behalf of families receiving Aid to Families with Dependent Children are disproportionately represented in the portion of each county's case sample that is not in compliance. In the event disproportionate representation is found in a county's pool of noncompliant cases, the department shall require corrective action from that county. However, this corrective action shall not affect the county's entitlement to incentives.

(c) This section shall become operative on July 1, 1998.

SEC. 3. Section 15200.8 of the Welfare and Institutions Code is repealed.

SEC. 4. Section 15200.81 is added to the Welfare and Institutions Code, to read:

15200.81. (a) On and after July 1, 1998, the department shall establish a state incentive for child support collections. The sum available for purposes of this section shall be paid as incentives on distributed collections to each county that elects to participate in the state incentives. A county electing to participate shall, as a condition of the receipt of state incentive funds under this section, be required to comply with the reporting requirements of Section 11475.8, during such time as regular and enhanced federal financial participation is available for collecting and reporting the data. Each participating county shall receive, as its incentive payment under this section, the percentage of the total incentive dollars distributed to participating counties that equals the county's percentage of statewide distributed collections. For purposes of this section, "distributed collections" means collections used to reduce or repay aid that is paid pursuant to this chapter, collections paid to an aided family, collections paid to a nonaided family regardless of the date of collection, collections paid to other child support agencies on behalf of children residing in other states, and any other payments collected that qualify for federal incentives.

(b) Each county shall continue to receive its federal child support incentive funding whether or not it elects to participate in the state child support incentive funding program.

(c) The department shall provide incentive funds pursuant to this section only during any fiscal year in which funding is provided for that purpose in the Budget Act.

SEC. 5. Section 15200.85 of the Welfare and Institutions Code is amended to read:

15200.85. (a) Effective January 1, 1992, there shall be appropriated from the State Treasury sufficient funds, including federal incentives, from which the department shall pay to each county a base rate of 10 percent on any support collections distributed, regardless of the date of collection. The base incentive rate shall decrease by 1 percent annually each July 1, until July 1, 1995, at which time it shall be 6 percent for that fiscal year and every fiscal year thereafter.

(b) This section shall become inoperative on June 30, 1998, and as of January 1, 1999, 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. 6. Section 15200.9 of the Welfare and Institutions Code is repealed.

SEC. 7. Section 15200.91 of the Welfare and Institutions Code is repealed.

SEC. 8. Section 15200.91 is added to the Welfare and Institutions Code, to read:

15200.91. (a) The Office of the Legislative Analyst, in consultation and collaboration with interested groups, including, but not limited to, the department, the county district attorneys, the Attorney General, the Bureau of State Audits, and interested advocacy organizations, shall prepare a performance-based incentive program, using a flat rate, for the 1998–99 fiscal year and that, for subsequent fiscal years, shall mirror the federal incentive plan. If the federal incentive plan has not been finalized, the state incentive program created pursuant to this section shall follow the latest draft federal incentive plan available. The performance-based incentive program shall do all of the following:

(1) Require all counties electing to participate in the incentive program to be in compliance with federal and state child support laws and regulations.

(2) Include at least all of the following measurements as performance measurements:

(A) Current support collected as a percentage of current support owed.

(B) Child support arrears collected as a percentage of child support arrears owed.

(C) Paternities established by each county's child support program as a percentage of paternities needing to be established by each county's child support program.

(D) Support orders established as a percentage of support orders needing to be established.

(E) Cost-effectiveness.

(3) Adjust performance data to correct any reporting errors and ensure that the performance incentive rewards actual results, and not just statistical variances.

(4) Require poorly performing counties to agree to technical assistance as a condition of receiving any state incentives payments.

(5) Require the department to review a statistically valid sample of underlying county performance data in all required categories to assure accuracy and comparability of the data.

(6) Develop a method to measure the number of children in the child support program who are covered by a private medical support policy, who are receiving Medi-Cal, and children who are uninsured.

(b) The Office of the Legislative Analyst shall issue a report to the Legislature by March 1, 1998.

(c) It is the intent of the Legislature that the revised performance-based child support incentive program be included in the Budget Act of 1998 and that it be effective in fiscal year 1998–99 and subsequent fiscal years. It is the intent of the Legislature that enactment of the revised performance-based child support incentive program be contingent upon enactment of the Budget Act of 1998 and that the payment of the state child support incentives be subject to the budget. It is the intent of the Legislature that total state child support funding under the revised performance-based child support incentive program designed pursuant to this section be no lower than the total state child support incentive funding for any previous fiscal year.

SEC. 9. Section 15200.92 is added to the Welfare and Institutions Code, to read:

15200.92. (a) This section shall apply to any county that elects to participate in the state incentive program described in Section 15200.81.

(b) Each participating county child support enforcement program shall provide the data required by Section 11475.8 to the State Department of Social Services on a quarterly basis. The data shall be provided no later than 30 days after the end of each quarter.

(c) On and after July 1, 1998, a county shall be required to comply with the provisions of this section only during fiscal years in which funding is provided for that purpose in the Budget Act.

SEC. 10. Section 15200.96 is added to the Welfare and Institutions Code, to read:

15200.96. Notwithstanding subdivision (a) of Section 15200.95, and to the extent funds are appropriated by the annual Budget Act, funds shall be provided to the Judicial Council for the nonfederal share of costs for the costs of child support commissioners pursuant to Section 4251 of the Family Code and family law facilitators pursuant to Division 14 (commencing with Section 10000) of the Family Code. The Judicial Council shall distribute the funds to the counties for the purpose of matching federal funds for the costs of child support commissioners and family law facilitators and related

costs. Funds distributed pursuant to this section may also be used to offset the nonfederal share of costs incurred by the Judicial Council for performing the duties specified in Sections 4252 and 10010 of the Family Code.

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## CHAPTER 927

An act to add Chapter 6 (commencing with Section 101860) to Part 4 of Division 101 of the Health and Safety Code, relating to health care.

[Approved by Governor October 12, 1997. Filed with Secretary of State October 12, 1997.]

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

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

(a) Private corporations, predominantly those organized as nonprofit corporations, currently operate more than 80 percent of the hospitals in the state in order to meet certain needs of their communities through the provision of essential health care and other services. Public recognition of the unique social status and function of these corporations has led to requirements that hospitals provide financial and other information to the state to assist in the planning and implementation of health policies in the public interest.

(b) Increasingly, operators of health care corporations, especially nonprofit corporations, have been called upon to assist the state in ensuring the availability of health care to the public by doing the following:

(1) Directly providing health care services funded by private grants, donations, and programs and by publicly funded health programs.

(2) Operating state-owned hospitals and clinics under contract.

(3) By participating in other public health programs.

(c) Hospitals and the environment in which they operate have undergone dramatic changes in response to market forces which have resulted in a variety of innovative corporate structures, partnerships, joint ventures, and equity participation arrangements.

(d) In enacting this act, the Legislature recognizes the need for state agencies to encourage private investment in support of health care services, without interfering unduly with the operations of those private corporations. The Legislature intends to ensure that certain information is made available to the public regarding the operations of certain nonprofit corporations that are uniquely designed to integrate the operations of both privately owned and state-owned health care facilities, without treating those corporations as if they

were state agencies. However, the Legislature reaffirms its intent that a state agency which engages a private corporation for those purposes should take actions and conduct its deliberations openly so that the people may remain informed.

SEC. 2. Chapter 6 (commencing with Section 101860) is added to Part 4 of Division 101 of the Health and Safety Code, to read:

## CHAPTER 6. OTHER

### Article 1. Applicability and Purpose

101860. If any state agency, including a constitutional corporation, transfers to a private corporation assets for the operation of a hospital by that corporation and the value of the assets is not less than fifty million dollars ($50,000,000), the corporation shall be subject to the provisions of this chapter.

101860.5. For the purposes of this chapter, the primary public benefit purpose of the corporation is as stated in its articles of incorporation or bylaws of the corporation.

### Article 2. Public Meetings

101861. Meetings of the corporation shall be open and public, and all persons shall be permitted to attend, except as otherwise provided in this article.

101862. (a) As used in this article, "action taken" means a collective decision made at a meeting, including a decision upon a motion or resolution. Actions shall be taken by rollcall vote.

(b) For the purposes of this article, "meeting" means any meeting of a majority of the board of directors of the corporation and meetings of any committee exercising final decisionmaking authority delegated by the board, which committee was created by board action appointing the members of the committee. A meeting does not include a mere congregation of a majority of the directors or of a committee for purposes other than consideration of the business of the corporation or within the subject matter jurisdiction of the committee, provided no business of the corporation is discussed. A meeting does not include any of the circumstances described in subdivision (c) of Section 54952.2 of the Government Code.

101863. (a) Agendas of the meetings shall be posted not less than 72 hours in advance of the meetings in a place freely accessible to the public. Agendas of meetings and any other writings, when distributed to all, or a majority of all, of the directors or committee members for consideration during an open session of a meeting, and which writings would otherwise be subject to disclosure pursuant to Article 4 (commencing with Section 101870), shall be made reasonably available at the meetings, or as soon thereafter as practicable upon request. However, this shall not include any writing

exempt from disclosure under Article 4 (commencing with Section 101870). The agenda shall indicate the time and place of the meeting and contain a brief, general description of each item of business to be considered or acted upon at the meeting, including items to be discussed in closed session. A description generally need not exceed 20 words. Items of business not included in the posted agenda shall not be considered at a meeting; except that an item may be added to the agenda upon a determination by a two-thirds vote, or if less than two-thirds of the directors or committee members are present, an unanimous vote of those present, that there is a need to take immediate action and that the need for action came to the attention of the corporation after the agenda was posted.

(b) Agendas shall include opportunity for public comment on any item on the agenda at the meeting, subject to fair and reasonable standards determined by the board of directors to ensure that the intent of this article is carried out.

(c) Meetings shall be held at a location accessible to the public. Meetings may be held by teleconference or video teleconference, provided that during the public portions of each teleconferenced meeting, the proceedings shall be audible to the public at the locations specified in the notice of the meeting, and all votes taken shall be by rollcall. When meeting by teleconference or video teleconference, at least one of the locations specified in the notice shall be a principal place of business of the corporation, including a hospital or related facility. The board of directors may adopt reasonable rules to prevent disruption of the meetings by any person.

(d) In the case of an emergency situation involving matters upon which prompt action is necessary due to a disruption or threatened disruption of the business of the corporation, an emergency meeting may be called with less than 72 hours notice. In that event, newspapers of general circulation and radio or television stations that have previously requested, in writing, notices of meetings shall be notified, if practicable, at least one hour prior to the emergency meeting.

101864. Closed sessions of meetings may be conducted to consider, discuss, and act upon matters relating to any of the following:

(a) Collective bargaining or contract negotiations with represented and unrepresented employees, including discussion of the corporation's available funds and funding priorities, but only insofar as the discussion relates to the corporation's ability to conclude the collective bargaining agreement or contract under discussion. For the purposes of this subdivision, "employee" shall include an officer, an independent contractor who functions as an officer or an employee, a physician and surgeon or other professional with medical staff privileges at a health facility or clinic operated by the corporation, or other person exercising professional responsibilities as authorized by the corporation at a health facility

or clinic operated by the corporation, but shall not include other independent contractors.

(b) The purchase or sale of securities or other investments, including investments of the corporation in endowment and pension funds.

(c) Gifts, devises, bequests, and grants.

(d) Reports of a hospital or medical audit committee or a quality assurance committee or similar reports by staff of the corporation, accreditation reports, audits, audit compliance, licensure compliance, insurance and self-insurance coverage, health care peer review reports, and quality assessments, including, but not limited to, a review of the credentials of, or the quality of care rendered by, health care providers in the facilities of the corporation, or hearings regarding the privileges of medical staff and allied health professionals.

(e) National security.

(f) Acquisition, disposition, or lease of property. However, notwithstanding any other provision of this article, no less than 10 days prior to any action on any transaction involving the acquisition, disposition, or lease of real property having a fair market value of five million dollars ($5,000,000) or more or personal property having a fair market value of ten million dollars ($10,000,000) or more that is owned by a state agency, including a constitutional corporation, the corporation shall hold an open session at which the public shall have an opportunity to comment on the proposed transaction.

(g) Pending litigation, including any adjudicatory proceeding before a court, administrative body, hearing officer, arbitrator, mediator, or other formal dispute resolution mechanism. For the purposes of this subdivision "pending" means that, based on advice of the corporation's legal counsel, there are facts and circumstances within the contemplation of the corporation that may result or has resulted in proceedings against or by the corporation, whether or not known to a potential plaintiff or plaintiffs or to a potential defendant or defendants.

(h) Evaluation, appointment, employment, performance, compensation, or dismissal of officers or employees of the corporation or its medical or professional staff, including internal adjudicatory proceedings, complaints, charges, investigations, and hearings. For the purposes of this subdivision, the term "employee" shall include an officer, an independent contractor who functions as an officer or performs functions traditionally performed by an employee, a physician and surgeon or other professional with medical staff privileges at a health facility or clinic operated by the corporation, or other person exercising professional responsibilities as authorized by the corporation at a health facility or clinic operated by the corporation, but shall not include any member of the board of directors, as such, or other independent contractors. The term "employee" shall also include a chief executive officer or other

employee of the corporation who is an ex-officio member of the board of directors.

(i) Consideration of the appointment or reappointment of directors to the board of the corporation.

(j) The terms and conditions of contracts for the provision of health care services, including compliance with regulatory conditions thereof, with governmental and nongovernmental insurers, health care providers, health plans, third-party administrators, management services organizations, self-insured employers, medical groups, and payers or any other portion of contract negotiations, impressions, opinions, recommendations, meeting minutes, research, work product, theories or strategy, or instructions or advice to employees.

(k) Charges or complaints from a member enrolled in a health plan or any affiliated provider of health care services.

(*l*) Any trade secret as defined in subdivision (d) of Section 3426.1 of the Civil Code.

(m) Any item that cannot be discussed in open session without revealing information prohibited or exempted from public disclosure by any provision of state or federal law applicable to any governmental hospital, or any state or federal statute applicable to a nongovernmental hospital, including, but not limited to, provisions of the Evidence Code relating to privilege. Prior to holding any closed session under this subdivision, the provision of state or federal law shall be publicly identified, where applicable.

101865. (a) Prior to holding any closed session, the agenda item or items to be discussed in the closed session shall be publicly identified. An item may be identified by reference to the item or items as they are listed by number or letter on the agenda. In a closed session, only those matters covered in the statement may be considered. Nothing in this article shall require or authorize a disclosure of information prohibited by state or federal law.

(b) The corporation shall designate an officer or officers who shall attend each closed session of the board or a committee and keep a minute book of the session. The minute book may, but need not, consist of a recording of the closed session. The minute book is not a record subject to Section 101871 and shall be kept confidential. The minute book shall be available only to members of the board or committee or, if a violation of this chapter is alleged to have occurred at a closed session, to a court of general jurisdiction wherein the corporation lies.

(c) After any closed session, the board or committee shall reconvene into open session prior to adjournment and shall make any disclosures required by subdivision (d) of action in the closed session. Announcements required to be made in open session pursuant to this article shall be made at the location announced in the agenda for the closed session.

(d) Any action taken during a closed session of a meeting shall be announced publicly, including the vote or abstention of every director present, as follows:

(1) Approval of an agreement concluding property negotiations pursuant to subdivision (f) of Section 101864 shall be reported after the agreement is final, as specified below:

(A) If its own approval renders the agreement final, the corporation shall report that approval and the substance of the agreement in open session at the meeting during which the closed session is held.

(B) If final approval rests with the other party to the negotiations, the corporation shall disclose the fact of that approval and the substance of the agreement upon inquiry by any person, as soon as the other party or its agent has informed the corporation of its approval.

(2) Approval given to its legal counsel of a settlement of pending litigation, as described in subdivision (g) of Section 101864, at any stage prior to or during a judicial or quasi-judicial proceeding shall be reported after the settlement is final, as specified below:

(A) If the corporation accepts a settlement offer signed by the opposing party, the body shall report its acceptance and identify the substance of the agreement in open session at the meeting during which the closed session is held.

(B) If final approval rests with some other party to the litigation or with the court, then as soon as the settlement becomes final, and upon inquiry by any person, the corporation shall disclose the fact of that approval, and identify the substance of the agreement.

(3) Approval of an agreement concluding collective bargaining or contract negotiations with represented or unrepresented employees pursuant to subdivision (a) of Section 101864 shall be reported after the agreement is final and has been accepted or ratified by the other party. The report shall identify the item approved and the other party or parties to the negotiation.

101866. Announcements that are required to be made pursuant to this article may be made orally or in writing. Any contracts, settlement agreements, or other documents that are finally approved or adopted in the closed session and are subject to an announcement pursuant to this article shall be records subject to disclosure in accordance with Article 4 (commencing with Section 101870). However, nothing in this section shall require the announcement or disclosure of records that would impair the corporation's ability to accomplish its primary public benefit purposes either by depriving the corporation of a material or competitive economic benefit, or exposing the corporation to a material competitive or economic risk.

## Article 3. Enforcement of Public Meetings

101868. (a) Any interested person may institute proceedings for injunctive or declaratory relief or writ of mandate in any court of competent jurisdiction for the purpose of stopping or preventing violations or threatened violations of Article 2 (commencing with Section 101861) by the corporation. In addition, the corporation may institute proceedings for declaratory relief, or validation of its policy or policies under Article 2 (commencing with Section 101861). In the event the corporation institutes proceedings, the corporation shall give written notice, to the person or persons with an interest in the corporation's compliance with Article 2 (commencing with Section 101861), of the right to participate in the proceedings.

(b) Any interested person, including a corporation subject to this chapter, may institute proceedings for injunctive or declaratory relief or mandate in any court of competent jurisdiction for the purpose of obtaining a judicial determination as to whether an action taken by the corporation was in violation of Article 2 (commencing with Section 101861). In the event the corporation institutes proceedings, the corporation shall give written notice, to the person or persons with an interest in the corporation's compliance with Article 2 (commencing with Section 101861), of the right to participate in the proceedings.

(c) Any action seeking a judicial determination under this section shall be commenced within 30 days from the date the action was taken. Nothing in this section shall be construed to prevent the corporation from curing or correcting an action that is subject to review pursuant to this section. The fact that the corporation takes a subsequent action to cure or correct an action taken pursuant to this section shall not be construed or admissible as evidence of a violation of this chapter. Nothing in this section shall permit discovery of communications that are protected by the attorney-client privilege.

(d) An action shall not be determined to be null and void if any of the following conditions exist:

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

(2) The action taken gave rise to a contractual obligation.

(3) The action taken was in substantial compliance with this chapter.

(4) Invalidation of the action taken would substantially impair the corporation's ability to accomplish its primary public benefit purposes by either depriving the corporation of a material competitive or economic benefit, or exposing the corporation to a material competitive or economic risk.

### Article 4. Records To Be Available

101870. For the purposes of this article:

(a) “Person” includes any natural person, corporation, partnership, limited liability company, firm, or association.

(b) “Records” includes any writing containing information relating to the conduct of the corporation’s business prepared, owned, used, or retained by the corporation regardless of physical form or characteristics. “Records” does not include any records transferred from any private nonprofit corporation that is a member or predecessor of the corporation that were created prior to the transfer of assets for the operation of a hospital by the corporation.

(c) “Writing” means handwriting, typewriting, printing, photostating, photographing, and every other means of recording upon any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums, and other documents.

101871. (a) Records of the corporation shall be available to the public for inspection or copying upon a request in writing, submitted to the principal office of the corporation, which reasonably identifies the particular records sought to be disclosed, unless it is impracticable for an exact copy to be provided. Computer data shall be provided in a form determined by the corporation. The corporation shall adopt policies consistent with this article stating the procedures to be followed when making its records available under this article and identifying the officers or employees of the corporation responsible for the administration of these policies, and shall make these policies available to the public for inspection upon request during normal business hours.

(b) The corporation shall determine within 10 working days after receipt of a request whether to comply with the request, and shall immediately notify the person making the request of the determination and identify the provision of this article or other provision of law that is the basis for withholding any record. Access to records requested, or copies thereof, shall be provided promptly after the corporation determines it will comply with the request. The corporation may extend the time limit for making a determination for up to an additional 15 working days by giving written notice to the requester when an extension is necessary to permit the corporation to do any of the following:

(1) To search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request.

(2) To search for, collect, and appropriately examine a voluminous amount of separate and distinct records that are demanded in a single request.

(3) To consult with another person having a substantial interest in the determination of the request.

(4) To permit a determination to be made under this subdivision.

(c) Notices provided and requests made under this article shall be made available to the public.

(d) The corporation may establish reasonable charges for the costs of complying with this article, not to exceed the actual cost of duplication.

101872. Nothing in this article shall be construed to require disclosure of any of the following:

(a) Contracts, business and marketing strategies, financial information, and any other competitive and strategic information, disclosure of which would impair the corporation's ability to accomplish its primary public benefit purposes by depriving the corporation of a material or competitive economic benefit or exposing the corporation to a material competitive or economic risk.

(b) Records that relate to the terms and conditions of contracts for the provision of health care services, including compliance with regulatory conditions thereof, with governmental and nongovernmental insurers, health care providers, health plans, third-party administrators, management services organizations, self-insured employers, medical groups, and payers, or any other portion of contract negotiations, impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy, or instructions or advice to employees.

(c) Records that relate to reports of a hospital or medical audit committee or a quality assurance committee or similar reports by staff of the corporation, accreditation reports, audits, audit compliance, licensure compliance, insurance and self-insurance coverage, health care peer review reports, and quality assessments, including, but not limited to, a review of the credentials of, or the quality of care rendered by, health care providers in the facilities of the corporation, or hearings regarding medical staff privileges.

(d) Records the disclosure of which is exempted or prohibited pursuant to any provision of state or federal law applicable to any governmental hospital, or any state or federal statute applicable to a nongovernmental hospital, including, but not limited to, provisions of the Evidence Code relating to privilege. The corporation shall identify the provision of law restricting disclosure when relying upon this exemption.

(e) Real estate appraisals or engineering or feasibility estimates related to the acquisition or disposition of property or related to supply and construction contracts, and until all of the contracted property, supplies, or construction work is obtained. This exemption from disclosure shall continue until these contracts are final and agreed to by all parties to the contracts.

(f) Records that relate to collective bargaining or contract negotiations with represented and unrepresented employees

including discussions of the corporation's available funds and funding priorities, but only insofar as these discussions relate to the corporation's ability to conclude the collective bargaining agreement or contract under discussion. For the purposes of this subdivision, "employee" shall include an officer, an independent contractor who functions as an officer or an employee, a physician and surgeon or other medical professional with medical staff privileges at a health facility or clinic operated by the corporation, or other person exercising professional responsibilities as authorized by the corporation at a health facility or clinic operated by the corporation, but shall not include other independent contractors.

(g) Medical, personnel, or similar files, the disclosure of which would constitute an invasion of privacy of an employee, officer, customer, or patient of the corporation, including, but not limited to, home addresses, billing records, salaries, and employment contracts.

(h) Records provided by potential employees, contractors, physicians and surgeons, or other persons for the use or consideration of the corporation under a reasonable belief that the corporation would treat the records supplied as confidential, including financial statements and proprietary information. A reasonable belief may be, but need not be, supported by a written agreement.

(i) Library circulation records.

(j) Any trade secret as defined in subdivision (d) of Section 3426.1 of the Civil Code.

(k) Records relating to the purchase or sale of securities or other investments, including investments of the corporation in endowments and pension funds.

(*l*) Records relating to gifts, devises, bequests, and grants.

(m) Charges or complaints from a member enrolled in a health plan or any affiliated provider of health care services.

(n) Any record not otherwise expressly exempt from disclosure under this article if it impairs the corporation's ability to accomplish its primary public benefit purposes by either depriving the corporation of a material competitive or economic benefit, or exposing the corporation to a material competitive or economic risk.

101873. Notwithstanding any other provision of law, whenever at least one member of the members of the corporation is itself a state agency, including a constitutional corporation, the obligations of that member of the corporation to make records available to the public shall, with respect to any records received from or created by the corporation, be limited to those obligations contained in this article, provided that if a record otherwise subject to this article is distributed to a majority of the members of the governing body of a state agency, including a constitutional corporation, for consideration at a public meeting of that agency in open session in connection with an item of business on the agency's meeting agenda, such a record shall be made available to the public in accordance with the laws applicable to that

agency. Nothing in this article is intended to prohibit any member from making information available to the public.

Article 5. Enforcement of the Disclosure of Records

101875. (a) Any person may institute proceedings for injunctive or declarative relief or writ of mandate in any court of competent jurisdiction to enforce his or her right to inspect or to receive a copy of any record or class of records under this chapter. In addition, the corporation may institute proceedings for declaratory relief or validation of its policy or policies under this article, or elect to interplead the records sought to be disclosed. In the event the corporation institutes proceedings or interpleads records, the corporation shall give written notice, to the person or persons with an interest in disclosure or nondisclosure of the records, of the right to participate in the proceedings. The times for responsive pleadings and for hearings in these proceedings shall be set by the judge of the court with the object of securing a decision as to these matters at the earliest possible time.

(b) Whenever it is made to appear by verified petition to the superior court of the county where the records or some part thereof are situated that certain records are being improperly withheld from disclosure, the court shall order the officer or person charged with withholding the records to disclose the record or show cause why he or she should not do so. The court shall decide the case after examining the record in camera, if permitted by subdivision (b) of Section 915 of the Evidence Code, papers filed by the parties and any oral argument, and additional evidence as the court may allow.

(c) If the court finds that the corporation's decision to refuse disclosure is not justified under Article 4 (commencing with Section 101870), the court shall order the corporation to make the record available. If the judge determines that the corporation was justified in refusing to make the record available, he or she shall return the item to the corporation without disclosing its content with an order supporting the decision refusing disclosure.

(d) An order of the court, either directing disclosure by the corporation or supporting the decision of the corporation refusing disclosure, is not a final judgment or order within the meaning of Section 904.1 of the Code of Civil Procedure from which an appeal may be taken, but shall be immediately reviewable by petition to the appellate court for the issuance of an extraordinary writ. Upon entry of any order pursuant to this section, a party shall, in order to obtain review of the order, file a petition within 20 days after service upon him or her of a written notice of entry of the order, or within such further time not exceeding an additional 20 days as the trial court may for good cause allow. If the notice is served by mail, the period within which to file the petition shall be increased by five days. A stay of an order or judgment shall not be granted unless the petitioning party

demonstrates it will otherwise sustain irreparable damage and probable success on the merits. Any person who fails to obey the order of the court shall be cited to show cause why he or she is not in contempt of court.

## Article 6. Application

101878. It is the intent of the Legislature that the provisions of this chapter shall apply retroactively to all of the records of any corporation to which this chapter applies, as of the effective date of this chapter, notwithstanding that this chapter was not in effect at the time the corporation created or obtained those records.

101879. It is also the intent of the Legislature that the provisions of this chapter regarding the holding of meetings of a corporation shall apply prospectively, so that any meetings held by the corporation prior to the effective date hereof shall not be deemed to have been in contravention of this chapter.

101880. The Legislature finds and declares that a corporation subject to this chapter shall continue to be private, notwithstanding this chapter, and in any event, shall not be subject to the provisions of the Government Code or the Education Code made applicable to any public agency, or any public or constitutional corporation, generally, or collectively. Nothing in this chapter grants any authority to any person, including any public agency or constitutional corporation, to establish a corporation to which this chapter applies.

101881. This chapter shall be inapplicable to any corporation in a county of the 2nd class.

SEC. 3. The Legislature finds and declares all of the following:

(a) The directors, officers, and employees of any corporation to which Chapter 6 (commencing with Section 101860) of Part 4 of Division 101 of the Health and Safety Code applies would not be confronted with the type of conflicts of interest comprehended by the Political Reform Act of 1974 (Title 9 (commencing with Section 81000) of the Government Code) and would have no opportunity to participate in the making of any governmental decisions.

(b) The directors, officers, and employees of any corporation to which Chapter 6 (commencing with Section 101860) of Part 4 of Division 101 of the Health and Safety Code applies would be pursuing the common interests of the members of the corporation, and as such, are not subject to regulation under the Political Reform Act of 1974 (Title 9 (commencing with Section 81000) of the Government Code) under the analysis of In re Sherwood, 2 FPPC Op. 168 (12/15/76).

(c) Application of the Political Reform Act of 1974 (Title 9 (commencing with Section 81000) of the Government Code) to any corporation to which this chapter applies would erode public support for that act by inappropriately impairing the achievement of improved health care and access that such a corporation provides and impeding the goal of increasing private financial support for medical

education and research. The application of the Political Reform Act of 1974 would deprive the corporation of the services of the best and most knowledgeable individuals from the private sector in a competitive marketplace in which competitors face no comparable restrictions.

SEC. 4. Notwithstanding the findings contained in Section 3, in order to eliminate any uncertainty as to the status of the corporation and maintain public support for the Political Reform Act of 1974 (Title 9 (commencing with Section 81000) of the Government Code), it is in the best interests of the people of the State of California, and in furtherance of the purposes of the Political Reform Act of 1974, that this act shall not take effect unless enacted pursuant to the procedures set forth in Section 81012 of the Government Code.

SEC. 5. Any action brought to interpret or challenge the validity of any provision of Chapter 6 (commencing with Section 101860) of Part 4 of Division 101 of the Health and Safety Code or any other provision of this act shall be set for trial at the earliest possible time and, notwithstanding any other provision of law, shall take precedence over all other cases, except older matters of the same character.

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## CHAPTER 928

An act to amend and supplement the Budget Act of 1997 (Chapter 282 of the Statutes of 1997), relating to state government, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 12, 1997. Filed with Secretary of State October 12, 1997.]

To the Members of the California Assembly:

Assembly Bill No. 1571 makes various appropriations for a number of governmental programs which would amend the Budget Act of 1997.

I am signing Assembly Bill No. 1571, however, I am reducing the appropriations made to various sections by a total of $38,987,000.

The specific reductions are as follows:

SECTION 7 and Section 8 (b) Renovation of the Solano County Courthouse

I am deleting Section 7 and subdivision (b) of Section 8 of this bill.

I am deleting the $50,000 legislative augmentation from the General Fund for the renovation of the Solano County Courthouse. Under current law, and the trial court funding restructuring proposal, court facility costs remain the responsibility of the county.

SECTION 10 Verdugo Hills of Peace Cemetery

I am deleting Section 10 of this bill.

Section 10 would appropriate $1,510,000 from the General Fund to the Department of Consumer Affairs for allocation to the City of Los Angeles when the city assumes receivership of the Verdugo Hills of Peace Cemetery and conservatorship of the cemetery's endowment care fund. This appropriation would set an undesirable precedent by using General Fund moneys to address the financial problems of local cemeteries.

SECTION 12 House Migrant Farmworkers

I am deleting Section 12 of this bill which would have appropriated $2,500,000 from the General Fund for migrant farm workers.

I am deleting this section because this project is lower on the priority listing for funding than other projects. In addition, to fund it with state funds now would be to forego federal funding that is expected to be allocated by the Rural Development Agency within the next few years.

SECTION 13 Funding for Commercial Space Projects

I am reducing this Section from $3,531,000 to $3,271,000 by reducing:

(b) Manufacturing Technology Program from $2,000,000 to $1,740,000.

I am reducing the General Fund legislative augmentation to the Manufacturing Technology Program to $1,740,000, which, together with the $5,000,000 I have already approved in the Budget Act of 1997, will be sufficient to maximize available federal matching funds while continuing to require local matching efforts.

SECTION 15 Job Creation Investment Fund

I am deleting Section 15 of this bill.

I am deleting the $5,000,000 General Fund transfer to the Job Creation Investment Fund and the subsequent appropriation from this fund. I believe this new program, which provides planning grants to counties for their economic development programs, is adequately funded by the $5,000,000 in the Budget Act of 1997. Future funding for this program will be evaluated during the budget process, as more becomes known about what local governments propose to do and how the state can support economic development efforts which appear most promising.

SECTION 17 Soil Survey in Humboldt and Del Norte Counties

I am deleting Section 17 of this bill.

I am deleting the $95,000 legislative augmentation from the Natural Resources Infrastructure Fund to fund a grant to the Humboldt County Resource Conservation District to conduct a soil survey in Humboldt and Del Norte Counties. This augmentation has not been analyzed and prioritized for funding with other worthwhile programs.

SECTION 18 Red Mountain Fire Lookout

I am deleting Section 18 of this bill.

I am deleting the $32,000 legislative augmentation from the Natural Resources Infrastructure Fund to provide permanent funding for the Red Mountain Fire Lookout. After extensive evaluation, it has been determined that fire lookouts are no longer critical to firefighting efforts as they have become a secondary notification source due to increased populations moving into wildland areas and modern technology, such as cellular telephones. Consequently, it is not an efficient use of the Department of Forestry and Fire Protection's firefighting resources to staff these lookouts. This action is consistent with my previous veto of this augmentation in the Budget Act of 1997.

SECTION 19 Natural Resources Infrastructure Fund

I am deleting Section 19 of this bill.

I am deleting the $260,000 legislative augmentation from the Natural Resources Infrastructure Fund for the following projects:

(a) $100,000 for support of recreational opportunities for anglers within the northern portion of Region 3. This project should be analyzed and prioritized for funding along with other worthwhile projects. In addition, it is unclear if this project qualifies as an appropriate use of the Natural Resources Infrastructure Fund. This action is consistent with my previous veto of this augmentation in the Budget Act of 1997.

(b) $160,000 for management and maintenance costs of the South Spit of Humboldt Bay. The State does not have jurisdiction over this property and, therefore, management and maintenance activities should be handled by local government. In addition, it is unclear if this project qualifies as an appropriate use of the Natural Resources Infrastructure Fund. This action is consistent with my previous veto of this augmentation in the Budget Act of 1997.

SECTION 20 Natural Resources Infrastructure Fund

I am reducing this Section from $1,600,000 to $600,000 by deleting:

(b) $1,000,000 appropriation to the Wildlife Conservation Board from the Natural Resources Infrastructure Fund for the acquisition of the Mattole River Headwaters. This acquisition has not been analyzed and prioritized for funding along with other worthwhile projects.

SECTION 24 1996 Safe, Clean, Reliable Water Supply Fund

I am deleting Section 24 of this bill.

I am deleting the $1,000,000 legislative augmentation for the Guadalupe River Parkway project from the River Parkway Subaccount of the 1996 Safe, Clean, Reliable Water Supply Fund (Proposition 204), consistent with my earlier vetoes in the Budget Act of 1997. Its priority has not been evaluated relative to other river parkway projects throughout the State.

SECTION 25 Apportionment of Local Grants

I am deleting Section 25 of this bill.

I am deleting the $1,000,000 legislative augmentation from the General Fund by deleting:

(a) City and County of San Francisco: Esprit Park Acquisition ($500,000)

(b) City of San Jose: Mexican Heritage Corporation and Plaza project ($500,000)

These projects have not been analyzed and prioritized for funding with other worthwhile programs.

SECTION 27 City of El Monte

I am reducing this Section from $500,000 to $250,000 by deleting:

(b) City of El Monte: Teen Center ($250,000)

I am deleting the $250,000 legislative augmentation from the Public Resources Account because this project is not of sufficiently high priority to justify the use of limited state resources.

SECTION 28 Glendale Memorial Park

I am reducing this Section from $750,000 to $500,000 by deleting:

(2) City of Glendale: Glendale Memorial Park ($250,000)

I am deleting the $250,000 legislative augmentation from the Natural Resources Infrastructure Fund because this project is not of sufficiently high priority to justify the

use of limited state resources. Further, no information was provided to substantiate the need for funding this project. This action is consistent with my previous veto of this augmentation in the Budget Act of 1997.

SECTION 33 Nonpoint Source Abatement Grants

I am deleting Section 33 of this bill.

I am deleting the $600,000 legislative augmentation from the General Fund to implement coastal nonpoint source abatement grants. In determining the program activities best suited to meet its program mission, the department has determined that it gets more results from every dollar spent on its existing programs than it would receive on dollars spent on a grant program. For this reason the $7,000,000 currently contained in the budget to implement nonpoint source abatement activities does not contain a grant component and I believe it would not be prudent to introduce such a program at this time.

SECTION 34 Water Quality Monitoring Activities

I am deleting Section 34 of this bill.

I am deleting the $420,000 legislative augmentation from the California Environmental License Plate Fund to fund an inventory of existing water quality monitoring activities in coastal watersheds and the preparation of a report identifying the development of a comprehensive coastal monitoring program. Funding for this activity is already provided in AB 1581, which I recently signed.

SECTION 37 Cleanup of Residual Waste Oil

I am deleting Section 37 of this bill.

This provision would appropriate $250,000 from the General Fund to the Department of Toxic Substances Control (DTSC) to fund the cleanup of residual waste oil underneath properties in the town of Nipomo.

DTSC is in the process of completing a site investigation, in conjunction with the US EPA, to determine the extent of the contamination, the potential risk posed to the residents of that area, and a search for the parties potentially responsible for the contamination. Until those issues have been resolved, it would be premature to commit additional state money to fund any costs associated with the cleanup of this particular site.

SECTION 38 Battered Women's Shelters

I am deleting Section 38 of this bill.

I am deleting the $325,000 legislative augmentation of the General Fund for a specific battered women's shelter in Turlock. The 1997 Budget Act contains $14,000,000 for shelters including a $2,000,000 General Fund augmentation to expand shelter services. Each site has an opportunity to submit a request to the State for funding through the Request for Application selection process. This process provides funding for 116 shelters statewide. In light of this competitive process, it would be inappropriate to provide an appropriation to a specific shelter.

SECTION 39 Department of Community Services

I am deleting Section 39 of this bill.

I am deleting the $3,000,000 legislative augmentation from the General Fund to the Department of Community Services and Development to provide citizenship services to legal immigrants. The Budget contains $12,600,000 in federal adult education funds appropriated to the California Department of Education for this purpose, an approximate $5,000,000 increase over the prior year. These funds, in addition to the approximately $19,000,000 in Proposition 98 funds spent annually by school districts for citizenship classes should meet the needs for naturalization assistance and citizen

education.

SECTION 40 Teen Center in Guerneville

I am deleting Section 40 of this bill.

I am deleting the $100,000 legislative augmentation from the General Fund for a teen center in Guerneville to provide for a youth facility and recreational activities. This project has not been analyzed and prioritized for funding with other competing programs.

SECTION 41 Adult Protective Services

I am reducing this section from $5,000,000 to $1,000,000.

I am reducing by $4,000,000 the legislative augmentation from the General Fund for adult protective services for counties. This is a valuable program that the Administration supports; however, given limited resources and other high priority General Fund demands, I am unable to sustain the entire augmentation at this time. I will, however, review program needs and assess additional funding possibilities for this purpose during the development and prioritization of 1998–99 Governor's Budget.

SECTION 42 Microenterprise Demonstration Project

I am deleting Section 42 of this bill.

I am deleting the $1,000,000 legislative augmentation from the Federal Trust Fund for a three-year Microenterprise Demonstration project for "at-risk" individuals and recipients of CalWORKs benefits. California's welfare reform law takes effect January 1, 1998. Given the efforts counties will undertake to develop welfare-to-work plans, it is unlikely that funding will be necessary in 1997–98. Nevertheless, I am requesting the Trade and Commerce Agency to convene representatives from financial institutions to address methods that would facilitate local microenterprise development.

SECTION 43(a)(2) Middle College High Schools

I am reducing the appropriation in Section 43 by deleting paragraph (2) of subdivision (a) which allocates $450,000 from the General Fund to establish new middle college high schools. The 1997 Budget Act provides $8,700,000 for community colleges in the Fund for Student Success, for competitive grants to increase student success based on an analysis of student outcomes. The Fund for Student Success may be used to provide grants for the Middle College High School Program. Therefore, I believe this appropriation is duplicative and unnecessary.

SECTION 43(a)(4) Inglewood Unified School District Mathematics Pilot Project

I am reducing the appropriation in Section 43 of this bill by deleting paragraph (4) of subdivision (a) which allocates $200,000 from the General Fund to the Mathematics Instruction Pilot Program in the Inglewood Unified School District to enhance instruction in mathematics. This program should not commence until the State Board of Education study to assess methods to strengthen math instruction in grades K-12 is complete. In addition, the pilot project could result in unfunded General Fund costs to the California Department of Education and, although it is characterized as "one-time," I believe future augmentations would be needed since it is doubtful that meaningful results could be obtained within one year.

SECTION 43(a)(5) Santa Clara COE Summer Mathematics Institute Pilot Project

I am reducing the appropriation in Section 43 of this bill by deleting paragraph (5) of subdivision (a) which allocates $200,000 from the General Fund to the Summer Mathematics Institute Pilot Program to be operated by the Santa Clara County Superintendent of Schools, which would establish a model for teaching mathematics

to pupils with math difficulties in grades 6 through 8. I believe that this program should not commence until the State Board of Education study to assess methods to strengthen math instruction in grades K-12 is complete. In addition, the pilot project could result in unfunded General Fund costs to the California Department of Education and, although it is characterized as "one-time," I believe future augmentations would be needed since it is doubtful that meaningful results could be obtained within one year.

SECTION 43(a)(6) Action-Agua Dulce and San Marino Unified School District's Technology

I am reducing the appropriation in Section 43 of this bill by deleting paragraph (6) of subdivision (a) which allocates $50,000 from the General Fund for the Action-Agua Dulce Unified School District and the San Marino Unified School District on a one-time basis for computers and infrastructure. The benefits for these projects will be limited to the local level and could be funded through various one-time appropriations or competitive technology grant programs that are available to local school districts.

SECTION 43(a)(9) San Francisco Unified School District Technology for High Schools

I am reducing the appropriation in Section 43 of this bill by deleting paragraph (9) of subdivision (a) which allocates $2,000,000 from the General Fund for the San Francisco Unified School District on a one-time basis for computers, infrastructure and staff development for fourteen high schools. The benefits for this project will be limited to the local level and could be funded through various one-time appropriations available to local school districts or through the multi-year, billion dollar Digital High School initiative I recently signed into law.

SECTION 43(a)(11) South Bay Union School District Science Kit Materials

I am reducing the appropriation in Section 43 of this bill by deleting paragraph (11) of subdivision (a) which allocates $45,000 from the General Fund to the South Bay Union High School to purchase science kit materials for students. Providing science kits is a normal expense for school districts. This project could be funded through the regular school apportionments or various one-time appropriations that are available to the district.

SECTION 43(a)(13) Glendale Unified School District Joint Use Library

I am reducing the appropriation in Section 43 by deleting paragraph (13) of subdivision (a) which allocates $1,000,000 from the General Fund to reimburse the Glendale Unified School District for costs incurred in modernizing facilities in connection with a joint use library revitalization project of the Edison School/Pacific Park Model Neighborhood Community. Although joint use library projects should be encouraged as a way to increase the efficiency in the use of public facilities, this particular project has recently received a $1,000,000 grant from the State Allocation Board. Therefore, the allocation in this bill would be duplicative.

SECTION 45 Homework Help Centers: Liberty USD, Palmdale SD and Antioch USD

I am deleting Section 45 of this bill.

I am deleting the $150,000 legislative augmentation from the General Fund for Homework Help Centers. The benefits of these projects will be limited to the local level and could be funded through various one-time appropriations that are available to local educational agencies if they are a high priority at the local level.

SECTION 46 Support for California Postsecondary Education Commission's

Comprehensive Database

I am deleting Section 46 of this bill.

I am deleting the $200,000 legislative augmentation from the General Fund to the California Postsecondary Education Commission to further support its comprehensive database. The Budget Act of 1997 already contains an augmentation to support additional storage space and processing costs associated with the California Postsecondary Education Commission's comprehensive database.

SECTION 48 California State University General Support

I am reducing this section from $7,500,000 to $2,500,000.

I am deleting $5,000,000 of this legislative augmentation from the General Fund for support of the California State University for the university's long range technology needs and for enrollment impaction and management. Due to competing priorities for the General Fund, I am unable to support these augmentations to the California State University budget at this time. However, I am retaining funds for the system's Economic Improvement Initiative.

SECTION 50(c) Staff Development Funding

I am reducing this Section from $12,100,000 to $8,100,000 by deleting:

Subdivision (c) which allocates $4,000,000 from the General Fund to augment the Faculty and Staff Development categorical line item of the community colleges local assistance budget which is intended for the purpose of assisting districts to train faculty in the use of technology. As noted in my veto message to a similar legislative augmentation included in the 1997 Budget Act, staff development is a discretionary activity and colleges may already devote funds to this area if it is a high local priority. Additionally, the budget already includes a $5,000,000 augmentation for this intended purpose through the Telecommunications and Technology Infrastructure program which will provide greater assurances that training funds will be effectively utilized to complement recent and future investments in technology.

SECTION 51 San Jose City College Library

I am deleting Section 51 of this bill.

I am deleting the $765,000 legislative augmentation from the General Fund for the San Jose City College Library project, consistent with my earlier veto in the 1997 Budget Act. I am deleting this project because it circumvents the established procedures for evaluating and prioritizing the California Community College's capital outlay projects.

The State has limited resources to address education capital outlay needs. Therefore, all projects must be considered in relationship to competing needs for available resources, and these resources should be allocated to the highest priority projects as identified by the segments. The circumvention of the established prioritization process undermines this approach.

SECTION 52 Office of Criminal Justice Planning

I am deleting Section 52 of this bill.

I am deleting the $25,000 legislative augmentation from the General Fund to the Office of Criminal Justice Planning for the purpose of funding a graffiti abatement program in the City of Tracy. This money will be used by the City to purchase a graffiti abatement machine. While this project may have merit, funding for this equipment is essentially a local responsibility and should be funded on a priority basis from local resources.

SECTION 57 Department of Justice

I am revising Section 57 by reducing the appropriation by $2,000,000.

I am reducing the $5,000,000 legislative appropriation from the General Fund to the Department of Justice by $2,000,000 to fund provisions in Section 5 of Assembly Bill 1612. These funds will be used to purchase and install livescan electronic fingerprint terminals to be located statewide in order to facilitate securing criminal background checks prior to employing or certifying individuals to work in public or private schools. I am supportive of Assembly Bill 1612 and the funding necessary to implement its provisions. However, based upon information provided by the Department of Justice, the provisions of Assembly Bill 1612 and its companion legislation, Assembly Bill 1610, can be fully implemented with an appropriation of only $3,000,000 from the General Fund because there is adequate revenue from the fee supported Fingerprint Fee Account to fund the remaining costs associated with the enactment of these two bills. Therefore, I am reducing this appropriation by $2,000,000.

SECTION 58 Special Commissions on Los Angeles Boundaries

I am deleting Section 58 of this bill.

I am deleting the $250,000 legislative augmentation from the General Fund for the proposed Special Commission on Los Angeles Boundaries that would be established in Assembly Bill 62. I am concerned about providing limited state General Fund resources to address a regional concern when the need to look at land use issues and boundary changes is of statewide concern. For this reason, I signed Assembly Bill 1484 which includes a $250,000 appropriation for the proposed Commission on Local Governance for the 21st Century that will review statutes and policies related to reorganizations and boundary changes of local governments.

PETE WILSON, Governor

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

SECTION 1. The appropriations made by this act are in augmentation of the appropriations made in Section 2.00 of the Budget Act of 1997 (Ch. 282, Stats. 1997), and are subject to the provisions of that act, as appropriate, including, as applicable, the provisions of that act that apply to the items of appropriation that are augmented by this act. The references in this act to item numbers refer to items of appropriation in Section 2.00 of the Budget Act of 1997.

SEC. 2. The sum of five hundred thousand dollars ($500,000) is hereby appropriated from the General Fund to the Legislative Counsel Bureau, in augmentation of the appropriation made in Item 0160-001-0001, to fund century change information technology activities.

SEC. 3. (a) The sum of three million five hundred thousand dollars ($3,500,000) is hereby appropriated from the General Fund to the Judicial Council, in augmentation of the appropriation made in Item 0250-001-0001, for apportionment as follows:

(1) One million five hundred thousand dollars ($1,500,000) to fund an increase in the hourly rate of reimbursement for court-appointed counsel in capital cases.

(2) Two million dollars ($2,000,000) for the support of the California Habeas Resource Center, which shall be made available only upon the enactment of legislation in the 1997–98 Regular Session establishing that center.

(b) Any of the funds appropriated in subdivision (a) not expended for the purpose set forth in subdivision (a) shall revert to the General Fund on June 30, 1998.

SEC. 4. The funds appropriated by Item 0450-101-0932 hereby revert to the Trial Court Trust Fund, and are not available for expenditure for the 1997–98 fiscal year as specified by that item.

SEC. 5. The funds transferred to the Trial Court Trust Fund by Item 0450-111-0001 hereby revert to the General Fund.

SEC. 6. (a) The sum of five hundred six million four hundred eighty-eight thousand dollars ($506,488,000) is hereby appropriated from the General Fund, and the sum of one hundred fifty-six million dollars ($156,000,000) is hereby appropriated from the Trial Court Trust Fund, for apportionment pursuant to this section for the purposes of Chapter 13 (commencing with Section 77000) of Title 8 of the Government Code in lieu of the appropriations made pursuant to Items 0450-101-0932 and 0450-111-0001.

(b) The moneys appropriated by subdivision (a) shall be apportioned as follows:

(1) Five hundred fifty-one million seven hundred eighty-six thousand dollars ($551,786,000) for operation of the trial courts, to be allocated and reallocated by the Trial Court Budget Commission, subject to the approval of the Judicial Council. The funds apportioned under this paragraph shall be available for new judge orientation programs pursuant to policies approved by the Judicial Council; the Judicial Council shall be reimbursed for expenditures made for that purpose from that apportionment. All moneys deposited in the Trial Court Trust Fund in the 1997–98 fiscal year in excess of the amount appropriated from that fund pursuant to subdivision (a) are hereby appropriated for allocation to the trial courts in augmentation of the apportionment required by this paragraph.

(2) Ninety-two million two hundred seventy-eight thousand dollars ($92,278,000) for the compensation of trial court judges. The funds apportioned under this paragraph shall be available for the payment of workers’ compensation claims for trial court judges.

(3) Eighteen million four hundred twenty-four thousand dollars ($18,424,000) for assigned judges. The funds apportioned under this paragraph shall be available for all judicial assignments. The expenditure of these funds for necessary chambers may not exceed the staffing level that is necessary to support the equivalent of three judicial officers sitting on assignments at the appellate court level. The Director of Finance may augment the amount appropriated by this section from the General Fund for apportionment under this paragraph by up to one million one hundred seventy-four thousand dollars ($1,174,000) if the Judicial Council provides the Department of Finance with monthly expenditure data that support that augmentation; within 10 days of any augmentation, the director shall provide notification thereof to the Chairperson of the Joint

Legislative Budget Committee and the chairpersons of the fiscal committees of both houses of the Legislature.

(c) Notwithstanding Section 26.00 of the Budget Act of 1997 (Ch. 282, Stats. 1997), the Judicial Council may reallocate the funds appropriated by this section among the apportionment purposes identified herein; however, the council shall report any reallocation, within 30 days, to the Joint Legislative Budget Committee, the fiscal committees of both houses of the Legislature, and the Director of Finance.

(d) The Judicial Council shall establish performance criteria as prescribed by Section 68502.5 of the Government Code and the California Rules of Court. The council's approval under this section of the budget and allocation schedule recommended by the Trial Court Budget Commission shall be based on these criteria.

(e) The Judicial Council shall implement allocation criteria that include incentives for courts to implement court efficiency measures and control costs. The council shall inform the Legislature by October 1, 1997, as to how it has incorporated those incentives into the allocation criteria.

SEC. 7. The sum of fifty thousand dollars ($50,000) is hereby appropriated from the General Fund for local assistance, State Trial Court Funding, to be apportioned for the renovation of the Solano County Courthouse in Fairfield.

SEC. 8. (a) Sections 4 to 7, inclusive, of this act shall become operative only if, as determined by the Director of Finance, legislation is not enacted in the 1997–98 Regular Session that would substantially restructure trial court funding. If, and only if, the Director of Finance instead determines that legislation is enacted in that session that would substantially restructure trial court funding, those sections shall not become operative and subdivision (b) of this section shall instead become operative.

(b) The sum of fifty thousand dollars ($50,000) is hereby transferred from the General Fund to the Trial Court Trust Fund, for payment to Item 0450-101-0932 in augmentation of the transfer made in Item 0450-111-0001, and is appropriated, in augmentation of the appropriation made in Item 0450-101-0932, for local assistance, State Trial Court Funding, to be apportioned for the renovation of the Solano County Courthouse in Fairfield.

SEC. 9. The sum of four hundred eighty-one thousand dollars ($481,000) is hereby appropriated from the General Fund to the Office of Emergency Services, in augmentation of the appropriation made in Item 0690-001-0001, to fund the establishment of a centralized training facility for the urban search and rescue team.

SEC. 10. The sum of one million five hundred ten thousand dollars ($1,510,000) is hereby appropriated from the General Fund to the Department of Consumer Affairs, in augmentation of the appropriations made in the Budget Act of 1997 (Ch. 282, Stats. 1997), to be allocated to the City of Los Angeles when the Department of

Consumer Affairs and the City of Los Angeles enter into an agreement whereby the city assumes receivership of the Verdugo Hills of Peace Cemetery and conservatorship of the cemetery's endowment care fund. These funds are available for transfer to the city only if the agreement that accomplishes this goal is executed on or before March 15, 1998. If the agreement is not executed on or before March 15, 1998, the funds appropriated by this item shall revert to the General Fund.

SEC. 11. The sum of eighty-eight thousand dollars ($88,000) is hereby appropriated from the Earthquake Safety and Public Building Rehabilitation Fund of 1990 to the Department of General Services, in augmentation of the appropriation in Item 1760-301-0768, for working drawings for the demolition of the Sacramento Legislative Office Building Annex.

SEC. 12. The sum of two million five hundred thousand dollars ($2,500,000) is hereby appropriated from the General Fund to the Department of Housing and Community Development, in augmentation of the appropriation made in Item 2240-101-0001, to fund the construction, through the Office of Migrant Services, of housing units for migrant farm worker families at the San Joaquin Migrant Center to replace the 78 units demolished by the state in 1992 due to health and safety concerns.

SEC. 13. The sum of three million five hundred thirty-one thousand dollars ($3,531,000) is hereby appropriated from the General Fund to the California Trade and Commerce Agency, in augmentation of the appropriation made in Item 2920-001-0001, for apportionment as follows:

(a) One million four hundred thousand dollars ($1,400,000) to promote commercial space development activities, as follows:

(1) One million dollars ($1,000,000) to be disbursed in competitive grants to entities developing commercial space applications; of that amount, 50 percent shall be allocated to fund grant applications selected and recommended by the Western Commercial Space Center and 50 percent shall be allocated to fund grant applications selected and recommended by the California Space and Technology Alliance. Requests for proposals shall be promulgated by the Western Commercial Space Center and the California Space and Technology Alliance, which shall then select successful grant applications and forward recommendations to the California Trade and Commerce Agency. Where possible, grant applicants shall demonstrate the commitment of matching funds and other support from public and private sources.

(2) Two hundred thousand dollars ($200,000) shall be allocated to the Western Commercial Space Center, and two hundred thousand dollars ($200,000) shall be allocated to the California Space and Technology Alliance, to administer and promote commercial space development activities.

(b) Two million dollars ($2,000,000) to be allocated to the Manufacturing Technology Program.

(c) One hundred thirty-one thousand dollars ($131,000) to establish and fund one staff services analyst position and one office assistant position, and to fund related support, for the California Film Commission.

SEC. 14. The sum of six hundred twenty-five thousand dollars ($625,000) is hereby appropriated from the General Fund to the California Trade and Commerce Agency, in augmentation of the appropriation made in Item 2920-101-0001, for apportionment as follows:

(a) Five hundred thousand dollars ($500,000) to fund infrastructure development related to the construction of warehouse facilities for retail sales, including, but not limited to, site preparation and development, engineering, architectural services, utility installation, and transportation access.

(b) One hundred twenty-five thousand dollars ($125,000) for allocation to the California Council on Science and Technology to fund the study described in Provision 3 of that item as set forth in the conference report for Assembly Bill 107 of the 1997–98 Regular Session as adopted August 11, 1997, except that the data-gathering effort of the council shall be completed not later than November 15, 1997.

SEC. 15. (a) The Controller shall transfer the sum of five million dollars ($5,000,000) from the General Fund to the Job Creation Investment Fund, in augmentation of the transfer made in Item 2920-112-0001.

(b) The sum of five million dollars ($5,000,000) is hereby appropriated from the Job Creation Investment Fund to the California Trade and Commerce Agency for local assistance, in augmentation of the appropriation made in Item 2920-112-0393.

SEC. 16. The sum of one hundred twenty thousand dollars ($120,000) is hereby appropriated from the General Fund to the Department of Conservation, in augmentation of the appropriations made in the Budget Act of 1997 (Ch. 282, Stats. 1997), for apportionment to resource conservation districts.

SEC. 17. The sum of ninety-five thousand dollars ($95,000) is hereby appropriated from the Natural Resources Infrastructure Fund to the Department of Conservation, in augmentation of the appropriations made by the Budget Act of 1997 (Ch. 282, Stats. 1997), to fund a grant to the Humboldt County Resource Conservation District to conduct a soil survey in Humboldt and Del Norte Counties.

SEC. 18. The sum of thirty-two thousand dollars ($32,000) is hereby appropriated from the Natural Resources Infrastructure Fund to the Department of Forestry and Fire Protection, in augmentation of the appropriations made in the Budget Act of 1997 (Stats. 282, Stats. 1997), to fund the Red Mountain Fire Lookout.

SEC. 19. The sum of two hundred sixty thousand dollars ($260,000) is hereby appropriated from the Natural Resources Infrastructure Fund to the Department of Fish and Game, in augmentation of the appropriation made in Item 3600-001-0383, for apportionment as follows:

(a) One hundred thousand dollars ($100,000) for personnel and program costs associated with activities to increase recreational opportunities for anglers within the northern portion of Region 3 (Santa Cruz County to Mendocino County, including all Bay Area and Northern Bay Area counties), with an emphasis on Clear Lake and other lakes and reservoirs that are accessible from major urban population centers.

(b) One hundred sixty thousand dollars ($160,000) for the management and maintenance of the South Spit of Humboldt Bay, consistent with Chapter 1022 of the Statutes of 1996.

SEC. 20. The sum of one million six hundred thousand dollars ($1,600,000) is hereby appropriated from the Natural Resources Infrastructure Fund to the Wildlife Conservation Board, in augmentation of the appropriations made by the Budget Act of 1997 (Ch. 282, Stats. 1997), apportionment as follows:

(a) Six hundred thousand dollars ($600,000) for the acquisition of wildlife habitat at Rancho Jamul (Daley Ranch) in San Diego County.

(b) One million dollars ($1,000,000) for the Mattole River Headwaters acquisition.

SEC. 21. The sum of one million five hundred thousand dollars ($1,500,000) is hereby appropriated from the River Parkway Subaccount of the Safe, Clean, Reliable Water Supply Fund to the Wildlife Conservation Board, in augmentation of the appropriation made in Item 3640-301-0545, for the acquisition and restoration of riparian and associated habitat areas along the Sacramento River and its tributaries, with the highest priority accorded to the acquisition of land along the South Fork of the American River.

SEC. 22. The sum of seven hundred thousand dollars ($700,000) is hereby appropriated from the Renewable Resources Investment Fund to the Department of Boating and Waterways, in augmentation of the appropriation made in Item 3680-101-0940, to fund a grant to the San Diego Association of Governments to pay costs associated with the United States Navy Aircraft Carrier Homeporting Beach Nourishment Project in the San Diego Harbor.

SEC. 23. The sum of one million dollars ($1,000,000) is hereby appropriated from the General Fund to the State Coastal Conservancy, in augmentation of the appropriations made in the Budget Act of 1997 (Ch. 282, Stats. 1997), for the purpose of acquiring property or assets to protect or use the Coast Dairies property on the Santa Cruz coast. The funds appropriated by this section are available only if the conservancy determines, by formal action, that sufficient additional funds have been raised from other sources that it is feasible to complete the project funded by this section.

SEC. 24. The sum of one million dollars ($1,000,000) is hereby appropriated from the River Parkway Subaccount of the Safe, Clean, Reliable Water Supply Fund to the State Coastal Conservancy, in augmentation of the appropriation made in Item 3760-301-0545, to fund a river parkway program for the Guadalupe River.

SEC. 25. The sum of one million dollars ($1,000,000) is hereby appropriated from the General Fund to the Department of Parks and Recreation, in augmentation of the appropriations made in the Budget Act of 1997 (Ch. 282, Stats. 1997), to be available for expenditure during the 1997–98, 1998–99, and 1999–2000 fiscal years, for apportionment for local grants as follows:

(a) Five hundred thousand dollars ($500,000) to the City and County of San Francisco for the Esprit Park acquisition.

(b) Five hundred thousand dollars ($500,000) to the City of San Jose for the Mexican Heritage Corporation and Plaza project.

SEC. 26. The sum of two hundred fifty thousand dollars ($250,000) is hereby appropriated from the Environmental License Plate Fund to the Department of Parks and Recreation, in augmentation of the appropriation made in Item 3790-101-0140, for apportionment as a local grant to the City of Canada-Flintridge for the acquisition of lands in Cherry Canyon. This appropriation is contingent upon the availability of seven hundred fifty thousand dollars ($750,000) in matching funds, from public or private sources, for this acquisition purpose.

SEC. 27. The sum of five hundred thousand dollars ($500,000) is hereby appropriated from the Public Resources Account of the Cigarette and Tobacco Products Surtax Fund to the Department of Parks and Recreation, in augmentation of the appropriation made in Item 3790-101-0235, to be available for expenditure during the 1997–98, 1998–99, and 1999–2000 fiscal years, for apportionment as follows:

(a) Two hundred fifty thousand dollars ($250,000) as a local grant to the City of Bellflower for the acquisition of lands along the West Branch Greenway Trail.

(b) Two hundred fifty thousand dollars ($250,000) to the City of El Monte for a teen center.

SEC. 28. (a) The sum of seven hundred fifty thousand dollars ($750,000) is hereby appropriated from the Natural Resources Infrastructure Fund to the Department of Parks and Recreation, in augmentation of the appropriation made in Item 3790-101-0383, to be available for expenditure during the 1997–98, 1998–99, and 1999–2000 fiscal years, for apportionment as follows:

(1) Five hundred thousand dollars ($500,000) as a local grant to the City of Los Angeles for the Japanese-American National Museum.

(2) Two hundred fifty thousand dollars ($250,000) as a local grant to the City of Glendale for the Glendale Memorial Park.

(b) Of the amount appropriated for apportionment to the City of Fresno for the Southeast Regional Park pursuant to Schedule (1)(a)

of Item 3790-101-0383, the sum of one hundred thousand dollars ($100,000) is reappropriated to the Department of Parks and Recreation for apportionment to the County of Fresno for the Avocado, Laton, and Kearny Parks.

SEC. 29. The sum of one hundred fifty thousand dollars ($150,000) is hereby appropriated from the California Environmental License Plate Fund to the Department of Parks and Recreation, in augmentation of the appropriation made in Item 3790-301-0140, for the acquisition of small parcels adjacent to Tomales Bay State Park at Millerton Point.

SEC. 30. The sum of seven million five hundred eighteen thousand dollars ($7,518,000) is hereby appropriated from the General Fund to the Department of Water Resources, in augmentation of the appropriation made in Item 3860-001-0001, for expenditure as follows:

(a) One million four hundred thousand dollars ($1,400,000) to fund the work of the Reclamation Board with the United States Army Corps of Engineers, pursuant to federal Public Law 83-99, to repair 1997 flood damage to 74 locations among the Sacramento, Yuba, Bear, Feather, Calaveras, San Joaquin, Old, Tuolumne, and Fresno Rivers, and the Deer, Elder, Honcut, Cache, Bear, and Owens Creeks.

(b) Seven hundred three thousand dollars ($703,000) to fund flood forecasting, watershed model development, hydrologic data station maintenance, reservoir data exchange, and computer network system support.

(c) Five million four hundred fifteen thousand dollars ($5,415,000) to fund costs associated with the planning and advance deployment of personnel, materials, and facilities to prepare to respond to forecasted high water events and flooding in the Sacramento River and San Joaquin River systems and elsewhere in the state, including coastal areas, resulting from El Niño, and to avoid or minimize damage to persons and property due to the forecasted high water events and flooding.

SEC. 31. (a) The sum of two million five hundred thousand dollars ($2,500,000) is hereby transferred from the General Fund to the Rice Straw Demonstration Project Fund to fund apportionments by the State Air Resources Board, pursuant to Item 3900-001-0489, for research, development, or demonstration projects on alternative uses of rice straw. Notwithstanding any other provision of law, the amount to be deposited or transferred by the Director of Finance into the Rice Straw Demonstration Project Fund pursuant to Provision 1 of Item 3900-001-0489 is hereby reduced by the amount transferred pursuant to this subdivision.

(b) Notwithstanding any other provision of law, the amount appropriated pursuant to Item 3900-001-0489 is hereby reduced by the total amount that state agencies other than the State Air Resources Board expend during the 1997–98 fiscal year, as

determined by the Director of Finance, for research, development, or demonstration projects on alternative uses of rice straw.

SEC. 32. The sum of three million dollars ($3,000,000) is hereby appropriated from the Air Pollution Control Fund to the State Air Resources Board, in augmentation of the appropriation made in Item 3900-001-0115, to fund stationary source air pollution control activities.

SEC. 33. The sum of six hundred thousand dollars ($600,000) is hereby appropriated from the General Fund to the State Water Resources Control Board, in augmentation of the appropriation made in Item 3940-001-0001, to fund the nonpoint source abatement grants pursuant to Provision 2 of that item as set forth in the conference report for Assembly Bill 107 of the 1997–98 Regular Session as adopted August 11, 1997.

SEC. 34. The sum of four hundred twenty thousand dollars ($420,000) is hereby appropriated from the California Environmental License Plate Fund to the State Water Resources Control Board to fund the preparation of both an inventory of existing water quality monitoring activities within state coastal watersheds, bays, estuaries, and coastal waters, and a report that proposes the implementation of a comprehensive program to monitor the quality of the state coastal watersheds, bays, estuaries, and coastal waters.

SEC. 35. The sum of one hundred seventy-five thousand dollars ($175,000) is hereby appropriated from the Underground Storage Tank Cleanup Fund to the State Water Resources Control Board, in augmentation of the appropriation made in Item 3940-001-0439, for allocation to the Spring Valley Lake Association for expenses incurred for the cleanup of an underground storage tank.

SEC. 36. The sum of two hundred eighty thousand dollars ($280,000) is hereby appropriated from the Natural Resources Infrastructure Fund to the State Water Resources Control Board, in augmentation of the appropriations made in the Budget Act of 1997 (Ch. 282, Stats. 1997), to reimburse the Yucaipa Valley Water District for disputed audit repayments. The funds appropriated by this section shall be available only upon the district's exhaustion of all available administrative remedies to obtain reimbursement.

SEC. 37. The sum of two hundred fifty thousand dollars ($250,000) is hereby appropriated from the General Fund to the Department of Toxic Substances Control, in augmentation of the appropriation made in Item 3960-001-0001, to fund the cleanup of residual waste oil underneath properties in the town of Nipomo.

SEC. 38. The sum of three hundred twenty-five thousand dollars ($325,000) is hereby appropriated from the General Fund to the State Department of Health Services, in augmentation of the appropriation made in Item 4260-111-0001, to fund services to battered women with children through the Ella Johnson Memorial Center in Turlock.

SEC. 38.5. The sum of one million four hundred forty thousand dollars ($1,440,000) is hereby appropriated from the General Fund to the State Department of Developmental Services (hereafter the "department"), in augmentation of the appropriations made in the Budget Act of 1997 (Ch. 282, Stats. 1997), to be used as follows:

(a) (1) One million three hundred ninety thousand dollars ($1,390,000) to fund preliminary plans, working drawings, and construction of needed improvements at Porterville Developmental Center. In order to implement this subdivision, the department and the Department of General Services may enter into a sole-source contract with an architectural engineering consultant, in accordance with Section 1330 of Title 21 of the California Code of Regulations. In order to expedite the design associated with the construction of security improvements for the forensic population, the department and the Department of General Services may, in implementing this subdivision, use emergency contract procedures for the construction phase, in accordance with Section 3.1 of the State Administrative Manual and Section 1102 of the Public Contract Code, and may expedite the capital outlay process, as defined in Section 6700 of the State Administrative Manual. In addition, the department may enter into interagency agreements with other state agencies that have the resources that can assist the department to expedite the project.

(2) The Legislature finds and declares that the following table reflects the estimated costs of paragraph (1). It is the intent of the Legislature that the department substantially comply with these expenditure levels.

| | |
|---|---|
| Site improvements (sidewalks, paving, move power poles) | $150,000 |
| Fence (4,200 lf) | 525,000 |
| Sallyport (3 each), motorized gates (6 each) | 225,000 |
| Lighting (20 electroliers) | 100,000 |
| Architectural and engineering services | 260,000 |
| Project/construction management | 100,000 |
| Environmental document | 30,000 |

(3) The department may not deviate from the spending scheme described in the table provided in paragraph (2) by 10 percent or more of those amounts for those items without the prior authorization of the Department of Finance.

(b) Fifty thousand dollars ($50,000) for the purpose of providing additional peace officer positions to ensure adequate security at Porterville Developmental Center.

SEC. 39. The sum of three million dollars ($3,000,000) is hereby appropriated from the General Fund to the Department of Community Services and Development, in augmentation of the appropriation made in Item 4700-101-0001, for allocation to new and

existing providers of naturalization assistance, to fund assistance to legal noncitizen immigrants in the naturalization process. Not more than five percent of the amount of any allocation made under this section may be expended for administrative expenses of the recipient of the allocation.

SEC. 40. The sum of one hundred thousand dollars ($100,000) is hereby appropriated from the General Fund to the State Department of Social Services, in augmentation of the appropriation made in Item 5180-101-0001, for the West County Teen Center in Guerneville. These funds would match not less than fifty thousand dollars ($50,000) from West County Community Services. The center will provide a youth facility and recreational activities for teens in the Guerneville-Russian River area.

SEC. 41. The sum of five million dollars ($5,000,000) is hereby appropriated from the General Fund to the State Department of Social Services, in augmentation of the appropriation made in Item 5180-151-0001, for the expansion of adult protective services.

SEC. 42. The sum of one million dollars ($1,000,000) is hereby appropriated from the Federal Trust Fund to the State Department of Social Services, in augmentation of the appropriation made in Item 5180-151-0890 for transfer to Item 5180-151-0001, to fund the three-year Microenterprise Demonstration Project for "at-risk" individuals and recipients of CalWORKs benefits.

SEC. 43. (a) The sum of eight million one hundred eighty thousand dollars ($8,180,000) is hereby appropriated from the General Fund to the State Department of Education, in augmentation of the appropriations made in the Budget Act of 1997 (Ch. 282, Stats. 1997), for apportionment as follows:

(1) Four hundred thousand dollars ($400,000) for allocation to school districts to fund, for a two-year period, two projects under the community policing and mentoring for school safety program pursuant to Article 5 (commencing with Section 49350) of Chapter 8 of Part 27 of the Education Code, to be made available only upon the enactment of legislation that becomes effective on or before January 1, 1998, and adds that article establishing that program.

(2) Four hundred fifty thousand dollars ($450,000) to fund incentive grants on a one-time basis to school districts to fund the startup costs associated with establishing new middle college high schools pursuant to the program set forth in Chapter 14 (commencing with Section 11300) of Part 7 of the Education Code, to be made available only upon the enactment of legislation that becomes effective on or before January 1, 1998, and adds that chapter establishing that program. The total amount of an incentive grant allocated to a school district pursuant to this paragraph may not exceed one hundred twenty-five thousand dollars ($125,000).

(3) Three million four hundred thousand dollars ($3,400,000) for allocation to school districts in an equal amount per pupil based upon each school district's October enrollment in grades 4 to 6, inclusive,

in the 1996–97 fiscal year. Funds appropriated under this paragraph shall be used on a one-time basis for school libraries.

(4) Two hundred thousand dollars ($200,000) for allocation to the Inglewood Unified School District. Funds appropriated under this paragraph shall be used on a one-time basis to conduct a pilot project to enhance instruction in mathematics.

(5) Two hundred thousand dollars ($200,000) for allocation to the Santa Clara County Office of Education. Funds appropriated under this paragraph shall be used on a one-time basis to conduct a pilot project to enhance instruction in mathematics in accordance with Article 12.5 (commencing with Section 51840) of Chapter 5 of Part 28 of the Education Code. The funds appropriated by this paragraph shall become available only if legislation authorizing the conduct of a pilot program to evaluate the feasibility of establishing a countywide model for a summer mathematics institute is enacted and becomes effective on or before January 1, 1998.

(6) Fifty thousand dollars ($50,000) for allocation to the Action-Agua Dulce Unified School District and the San Marino Unified School District, to be allocated on the basis of an equal amount per unit of average daily attendance, as defined in subdivision (b) of Section 42238.5 of the Education Code, as of the second principal apportionment for the 1996–97 fiscal year. Funds appropriated under this paragraph shall be used on a one-time basis to purchase computers for use in classroom instruction or for the costs of any infrastructure improvements necessary to accommodate computers in the classroom.

(7) Thirty-five thousand dollars ($35,000) for allocation to the Laguna Salada School District. Funds appropriated under this paragraph shall be used for the Laguna Salada School District SCHOOLS Project.

(8) One hundred seventy-five thousand dollars ($175,000) for allocation to the La Canada Unified School District. Funds appropriated under this paragraph shall be for the district’s one-time costs of providing public access to technology and technology-related programs in connection with the joint use library project of La Canada Unified School District and the City of La Canada Flintridge.

(9) Two million dollars ($2,000,000) for allocation to the San Francisco Unified School District to be used on a one-time basis for the purpose of purchasing and placing computers, plus servers, printers, and hubs in 61 classrooms at 14 high schools. Any remaining funds may be used to provide technology professional development in order to provide high school teachers with the skills necessary to take full advantage of the technology that will be available. Before the release of the funds, the school district shall provide to the Superintendent of Public Instruction a plan consistent with the expressed intent of this section.

(10) One hundred thousand dollars ($100,000) for allocation to the Bellflower Unified School District to be used for the district’s

one-time costs, such as teacher training or the acquisition of equipment, under the Educational Career Options program at Bellflower High School.

(11) Forty-five thousand dollars ($45,000) for allocation to the South Bay Union School District, to be used on a one-time basis to provide science kit materials for an innovative science program that serves pupils from socioeconomic backgrounds that are traditionally underrepresented in science-related fields.

(12) One hundred twenty-five thousand dollars ($125,000) for allocation to the Glendale Unified School District. Funds appropriated under this paragraph shall be used on a one-time basis for an after-school enrichment program.

(13) One million dollars ($1,000,000) from the Proposition 98 Reversion Account for allocation to the Glendale Unified School District. Funds appropriated under this paragraph shall be used on a one-time basis to reimburse the school district for its costs incurred in modernizing facilities for public access to technology, including technology infrastructure projects, in connection with a joint use Library Revitalization Project of Edison School/Pacific Park Model Neighborhood Community within the Glendale Unified School District.

(b) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriations made by paragraphs (1) to (12), inclusive, of subdivision (a) shall be deemed to be "General Fund revenues appropriate for 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. 44. (a) The sum of two million dollars ($2,000,000) is hereby appropriated from the General Fund to the State Department of Education, in augmentation of the appropriations made in the Budget Act of 1997 (Ch. 282, Stats. 1997), for allocation for the home-to-school transportation program to school districts that are eligible for funding under Section 41862 of the Education Code. In making those allocations, the Superintendent of Public Instruction shall give highest priority to those districts having both a total cost per mile for the 1996–97 fiscal year for home-to-school transportation of between 100 and 115 percent of the statewide average cost per mile, and either weather-related conditions, or terrain-related conditions, that vary substantially from those of other districts that the superintendent determines may be classified as high-impact, high-efficiency districts.

(b) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the

appropriations made by subdivision (a) shall be deemed to be "General Fund revenues appropriate for school districts," as defined in subdivision (c) of Section 41202 of the Education Code, for the 1995–96 fiscal year, and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B," as defined in subdivision (e) of Section 41202 of the Education Code, for the 1995–96 fiscal year.

SEC. 45. (a) The sum of one hundred fifty thousand dollars ($150,000) is hereby appropriated from the General Fund to the State Department of Education, in augmentation of the appropriations made in the Budget Act of 1997 (Ch. 282, Stats. 1997), for allocation to the Liberty Unified School District, the Palmdale School District, and the Antioch Unified School District. The allocation to each of these districts may not exceed fifty thousand dollars ($50,000) and shall be available only upon the availability of a 5-percent local match, which may be provided from discretionary funds of the district or in-kind contributions from the private sector.

(b) The funds allocated pursuant to this section shall be used to fund a homework help center, which each recipient district must maintain for a minimum period of one year. The homework help center purposes for which the funds may be used include, but are not limited to, (1) the one-time costs of purchasing and placing computers in school libraries, which may be connected to the county library catalog and data bases to allow pupils access to county resources, (2) the employment of high school pupils to act as tutors, and (3) the purchase of additional reference materials for the help center. Assistance in the development and operation of the homework help centers may be obtained from local adult volunteers or from existing state resources such as the California Mentorship Project.

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

SEC. 46. The sum of two hundred thousand dollars ($200,000) is hereby appropriated from the General Fund for support of the California Postsecondary Education Commission, in augmentation of the appropriation made in Item 6420-001-0001, for the purpose of developing a data base for tracking student success in higher education institutions.

SEC. 47. The sum of two million seven hundred fifty thousand dollars ($2,750,000) is hereby appropriated from the General Fund to the University of California, in augmentation of the appropriations made in the Budget Act of 1997 (Ch. 282, Stats. 1997). Of that amount, two hundred fifty thousand dollars ($250,000) shall be expended for the University of California at Riverside to conduct planning activities related to the establishment of the Western Center for Archaeology and Paleontology in Riverside County.

SEC. 48. The sum of seven million five hundred thousand dollars ($7,500,000) is hereby appropriated from the General Fund to the California State University, in augmentation of the appropriation made in Item 6610-001-0001, to fund the university's long-range technology needs, Economic Improvement Initiative, and enrollment impaction and management.

SEC. 49. The sum of five hundred thousand dollars ($500,000) is hereby appropriated from the General Fund to the California State University, in augmentation of the appropriations made in the Budget Act of 1997 (Ch. 282, Stats. 1997), for allocation to the California State University at Hayward for expenditure on infrastructure improvements, including, but not limited to, electrical and roof repairs and replacements.

SEC. 50. The sum of twelve million one hundred thousand dollars ($12,100,000) is hereby appropriated from the General Fund to the Board of Governors of the California Community Colleges, in augmentation of the appropriation made in Item 6870-101-0001, for apportionment as follows:

(a) Four hundred thousand dollars ($400,000), in augmentation of the appropriation made in Schedule (a) of that item, for allocation to the Mt. San Antonio Community College Districts as one-time funding for hazardous substances abatement.

(b) Three million seven hundred thousand dollars ($3,700,000), in augmentation of the appropriation made in Schedule (e) of that item, as the first phase of a two-year commitment to increase funding to assist community colleges to meet their obligations to provide accommodations, and support services, to students with disabilities as required by state and federal nondiscrimination laws.

(c) Four million dollars ($4,000,000), in augmentation of the appropriation made in Schedule (i) of that item, for training in the use of newly acquired technology.

(d) Four million dollars ($4,000,000), in augmentation of the appropriation made in Schedule (p) of that item for the purchase of instructional equipment and library materials.

SEC. 51. The sum of seven hundred sixty-five thousand dollars ($765,000) is hereby appropriated from the Higher Education Capital Outlay Bond Fund of 1996 to the Board of Governors of the California Community Colleges, in augmentation of Item 6870-301-0658, to fund preliminary plans and working drawings for

the library addition at San Jose City College within the San Jose-Evergreen Community College District.

SEC. 52. The sum of twenty-five thousand dollars ($25,000) is hereby appropriated from the General Fund to the Office of Criminal Justice Planning, in augmentation of the appropriation made in Item 8100-101-0001, for the community graffiti abatement program in the City of Tracy.

SEC. 53. The sum of one million five hundred thousand dollars ($1,500,000) is hereby appropriated from the General Fund to the State Public Defender, in augmentation of the appropriation made in Item 8140-001-0001, to fund the purposes authorized by Senate Bill 513 of the 1997–98 Regular Session, and shall be made available only upon the enactment of that bill.

SEC. 54. Notwithstanding any other provision of law, the purposes for which the funds appropriated by Item 8180-101-0001 are available include the reimbursement of 100 percent of any extraordinary costs incurred by the County of Yuba in the homicide trial of People v. Peterson.

SEC. 55. (a) The sum of one million twelve thousand dollars ($1,012,000) is hereby appropriated from the General Fund to the Department of Industrial Relations, in augmentation of the appropriation made in Item 8350-001-0001.

(b) The sum of two hundred fifty-three thousand dollars ($253,000) is hereby appropriated from the Workers' Compensation Administration Revolving Fund to the Department of Industrial Relations, in augmentation of the appropriation made in Item 8350-001-0223.

(c) Notwithstanding subdivision (b) of Section 62.5 of the Labor Code or any other provision of law, the Department of Industrial Relations shall expend the funds appropriated by subdivisions (a) and (b) to design and implement the workers' compensation information system required by Section 138.6 of the Labor Code.

SEC. 56. The sum of one hundred fifty thousand dollars ($150,000) is hereby appropriated from the General Fund to the Military Department, in augmentation of the appropriation made in Item 8940-001-0001, to fund the operation of the California Military Museum.

SEC. 57. The sum of five million dollars ($5,000,000) is hereby appropriated from the General Fund to the Department of Justice to fund the purposes specified by Section 5 of Assembly Bill 1612 of the 1997–98 Regular Session, and shall be made available only upon the enactment of that bill.

SEC. 58. The sum of two hundred fifty thousand dollars ($250,000) is hereby appropriated from the General Fund for allocation by the Controller to fund the Special Commission on Los Angeles Boundaries established by Section 56656 of the Government Code, and shall be made available only upon the enactment of

legislation in the 1997–98 Regular Session that adds that section, establishing that commission, to the Government Code.

SEC. 59. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to make certain necessary augmentations to the appropriations made by the Budget Act of 1997 for support of state government for the 1997–98 fiscal year, it is necessary that this act take effect immediately.

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## CHAPTER 929

An act to amend Sections 44579.1, 44579.5, and 48980 of the Education Code, and to amend Section 1 of Chapter 296 of the Statutes of 1997, relating to staff development, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 12, 1997. Filed with Secretary of State October 12, 1997.]

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

SECTION 1. Section 44579.1 of the Education Code, as added by Chapter 296 of the Statutes of 1997, is amended to read:

44579.1. Each fiscal year, the Superintendent of Public Instruction shall provide each eligible school district applying for a grant pursuant to this article with a staff development allowance of two hundred twenty dollars ($220) per day for each certificated employee of the school district who participates in staff development in academic content and instructional methods in the core curricular areas that is provided by the school district. To be eligible for a grant pursuant to this article, the staff development program provided by the school district shall meet all of the following requirements:

(a) Meet local educational priorities.

(b) Be consistent with regulations developed by the Superintendent of Public Instruction pursuant to Section 44579.3.

(c) Be offered on days that are not counted as instructional time or days for the purposes of Article 8 (commencing with Section 46200) of Chapter 2 of Part 26.

(d) Require that for each noninstructional day the school district conducts staff development programs pursuant to this article, the school district shall reduce by one day the number of days per year permitted for staff development programs pursuant to Sections 44670.6, 52022, 52854, and 56242.

(e) Require that each day of staff development be at least as long as the day certificated employees of the school district would otherwise be required to work.

(f) Commencing on July 1, 1998, require that each day of staff development, that is held within the 180-day instructional period, be conducted only upon entering or exiting a regularly scheduled break, at the beginning of the new academic year, or end of the academic year.

(g) This section shall be operative in any fiscal year only to the extent that funds are provided for its purposes in the Budget Act. For the 1997–98 fiscal year only, the amount available for this purpose shall not exceed the amount appropriated in Item 6110-112-0001 of Section 2.00 of Chapter 282 of the Statutes of 1997.

SEC. 2. Section 44579.5 of the Education Code, as added by Chapter 296 of the Statutes of 1997, is amended to read:

44579.5. (a) Each fiscal year, any school district that did not offer 180 days of instruction to pupils, or in the case of schoolsites operating on multitrack, year-round calendars, any schoolsite that did not offer the equivalent of 180 days of instruction to pupils, in the fiscal year prior to the first fiscal year in which grant funds were received by that school district pursuant to this article shall increase the number of days of instruction by one day for each noninstructional day on which the school district conducts staff development programs pursuant to this article until a total of 180 days of instruction, or the equivalent, as appropriate, to pupils are being offered by that school district. A school district that increases the number of instructional days pursuant to this article shall not decrease the number of instructional days it offers in any subsequent fiscal years in which it participates in this program.

(b) With regard to schoolsites operating on multitrack, year-round calendars, for purposes of this section, the Superintendent of Public Instruction shall determine the equivalent days of instruction provided to pupils under these calendars.

SEC. 3. Section 48980 of the Education Code, as amended by Chapter 296 of the Statutes of 1997, 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 shall also advise the parents and guardians of all pupils attending a school within the district of the schedule of minimum days and pupil-free staff development days, and if any

minimum or pupil-free staff development days are scheduled thereafter, the governing board shall notify parents and guardians of the affected pupils as early as possible, but not later than one month before the scheduled minimum or pupil-free day.

(d) 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.

(e) 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.

(f) 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.

(g) 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.

(h) Commencing July 1, 1998, 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.

(i) 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.

(j) It is the intent of the Legislature that the governing board of each school district annually review the enrollment options available to the pupils within their districts and that the school districts strive to make available enrollment options that meet the diverse needs, potential, and interests of California's pupils.

SEC. 4. Section 1 of Chapter 296 of the Statutes of 1997 is amended to read:

Section 1. The Legislature finds and declares that existing law allows school districts up to eight days on which to conduct staff development within the instructional school year. It is the intent of the Legislature in enacting this act to increase the number of schooldays in a school year by providing funding to school districts to conduct staff development activities on days that are in addition to the number of days currently required for the instructional school year. It is the further intent of the Legislature that funding for the Staff Development Buy-out Program be phased in until all eight days of staff development are in addition to the 180 day instructional year or, in the case of schoolsites operating on multitrack, year-round calendars, in addition to the equivalent number of days of instruction.

SEC. 5. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, 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:

To address implementation issues associated with the Staff Development Buy-out Program enacted by Chapter 296 of the Statutes of 1997, it is necessary that this act take effect immediately.

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## CHAPTER 930

An act to amend Sections 513, 514, 518, 522, 523, 524, and 525 of, and to add Sections 526 and 527 to, the Harbors and Navigation Code, relating to vessels, and making an appropriation therefor.

[Approved by Governor October 12, 1997. Filed with Secretary of State October 12, 1997.]

On this day I have signed Senate Bill No. 172.

This bill would create the Abandoned Watercraft Abatement Fund (AWAF), establish a grant program for the removal of abandoned vessels, provide a $500,000 grant to Redwood City, and make changes in the law related to abandoned vessels or wrecked property on public waterways.

I am deleting the appropriation contained in Section 11 which would appropriate a $500,000 grant to the City of Redwood City for the clean up of abandoned, wrecked, or dismantled vessels. This amount has been appropriated in AB 1188 (Lempert).

PETE WILSON, Governor

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

SECTION 1. Section 513 of the Harbors and Navigation Code is amended to read:

513. If wrecked property is in a perishable state, the sheriff shall apply to the judge of the superior court, upon a verified petition, for an order authorizing the sheriff to sell it. If the judge is satisfied that a sale of the property would be beneficial to the persons interested, he or she shall make the order applied for, and the property shall then be sold at public auction, as specified in the order. The proceeds, deducting the expenses of salvage, storage, and sale as settled and allowed by the judge, shall be transmitted to the Treasurer for deposit in the General Fund.

SEC. 2. Section 514 of the Harbors and Navigation Code is amended to read:

514. If, within 90 days after wrecked property is found, any person claims the property, or its proceeds, and establishes his or her claim by evidence satisfactory to the judge of the superior court, the judge shall make an order directing the officer in whose possession the property or its proceeds may be, to deliver it to the claimant, upon the payment of a reasonable salvage and the necessary expenses of preservation.

SEC. 3. Section 518 of the Harbors and Navigation Code is amended to read:

518. If, within 90 days after saving wrecked property, no claimant of the property appears, or, if within 60 days after a claim, the salvage and expenses are not paid, or a suit for the recovery of the property is not commenced, the officer who has custody of the property may sell it at public auction and transmit the proceeds of the sale, after deducting salvage, storage, property tax liens, other liens, and other expenses, to the Treasurer for deposit in the General Fund. Deduction of salvage, storage, and other expenses shall not be made, unless the amount has been determined by the superior court of the county. A copy of the order, and the evidence in its support, shall be transmitted by the judge to the Controller.

SEC. 4. Section 522 of the Harbors and Navigation Code is amended to read:

522. (a) Any hulk, derelict, wreck, or parts of any ship, vessel, or other watercraft sunk, beached, or allowed to remain in an unseaworthy or dilapidated condition upon publicly owned submerged lands, salt marsh, or tidelands within the corporate limits of any municipal corporation or other public corporation or entity having jurisdiction or control over those lands, without its consent expressed by resolution of its legislative body, for a period longer than

30 days without a watchman or other person being maintained upon or near and in charge of the property, is abandoned property.

Thereafter, that municipal corporation or other public corporation or entity may, notwithstanding any other provision of law, take title to the abandoned property for purposes of abatement without satisfying any property tax lien on that property, and also may cause the property to be sold, destroyed, or otherwise disposed of in any manner it determines is expedient or convenient. Any property tax lien on the abandoned property shall be satisfied within 30 days following the sale of the abandoned property by a municipal corporation or public entity. Any sale in accordance with this section shall vest complete title in the purchaser who shall forthwith take steps to remove the property. Any proceeds derived from the sale shall be transmitted to the Treasurer for deposit in the General Fund.

(b) However, if the owner of the property securely affixes to the property a notice in plain view setting forth the owner's name and address and claim of ownership, together with the name and address of an agent or representative whom the owner may designate to act within the State of California if the owner does not reside in the state, and files a copy of the notice with the secretary of the municipal corporation or other public corporation or entity having jurisdiction or control over the lands at least 10 days prior to the removal, the municipal corporation or other public corporation or entity may not sell, destroy, or otherwise dispose of the property until the corporation or entity has first given the owner or the owner's agent, at the address specified in the claim of ownership, 15 days' notice to remove or cause the property to be removed, and then only if the property is not removed by the owner or the owner's agent within that time or reasonable extensions of time as the corporation or entity may grant by resolution. If a registration number appears on the watercraft, the municipal corporation or other public corporation or entity shall send the notice to the last registered owner and the disposition shall be handled as a lien sale under Section 504.

(c) Any municipal corporation or other public corporation may charge a fee to any person who is determined by that municipal or other public corporation to have caused property of a type described in subdivision (a) to become abandoned as described in that subdivision within its corporate limits, in an amount not to exceed the amount of that municipal or other public corporation's actual and reasonable costs incurred pursuant to this section with respect to the abandoned property.

SEC. 5. Section 523 of the Harbors and Navigation Code is amended to read:

523. (a) Any peace officer, as described in Section 663, any employee or officer of the State Lands Commission designated by the State Lands Commission, or any lifeguard or marine safety officer employed by a county, city, or district while engaged in the performance of official duties, may remove, and, if necessary, store

a vessel removed from a public waterway under any of the following circumstances:

(1) When the vessel is left unattended and is moored, docked, beached, or made fast to land in such a position as to obstruct the normal movement of traffic or in such a condition as to create a hazard to other vessels using the waterway, to public safety, or to the property of another.

(2) When the vessel is found upon a waterway and a report has previously been made that the vessel has been stolen or a complaint has been filed and a warrant thereon issued charging that the vessel has been embezzled.

(3) When the person or persons in charge of the vessel are by reason of physical injuries or illness incapacitated to such an extent as to be unable to provide for its custody or removal.

(4) When an officer arrests any person operating or in control of the vessel for an alleged offense, and the officer is, by any provision of this code or other statute, required or permitted to take, and does take, the person arrested before a magistrate without unnecessary delay.

(5) When the vessel interferes with, or otherwise poses a danger to, navigation or to the public health, safety, or welfare.

(6) When the vessel poses a threat to adjacent wetlands, levies, sensitive habitat, any protected wildlife species, or water quality.

(b) Costs incurred by a public entity pursuant to removal of vessels under subdivision (a) may be recovered through appropriate action in the courts of this state.

SEC. 6. Section 524 of the Harbors and Navigation Code is amended to read:

524. (a) Any peace officer, as described in Section 663, may store any vessel removed from private property when the vessel is found on, or attached to, private property and a report has previously been made that the vessel has been stolen or a complaint has been filed and a warrant thereon issued charging that the vessel has been embezzled.

(b) Any peace officer, as described in Section 663, may, after a reasonable period of time, remove a vessel from private property if the vessel has been involved in, and left at, the scene of a boating accident and no owner is available to grant permission to remove the vessel. This subdivision does not authorize the removal of a vessel if the owner has been contacted and has refused to grant permission to remove the vessel.

(c) Nothing in this section is intended to expand the territorial jurisdiction of peace officers beyond the provisions of Sections 830.1 and 830.2 of the Penal Code.

SEC. 7. Section 525 of the Harbors and Navigation Code is amended to read:

525. (a) Except for urgent and immediate concern for the safety of those aboard a vessel, no person shall abandon a vessel upon a

public waterway or public or private property without the express or implied consent of the owner or person in lawful possession or control of the property.

(b) The abandonment of any vessel in a manner as provided in subdivision (a) is prima facie evidence that the last registered owner of record, not having notified the appropriate registration or documenting agency of any relinquishment of title or interest therein, is responsible for the abandonment and is thereby liable for the cost of removal and disposition of the vessel.

(c) Violation of this section is an infraction and shall be punished by a fine of not less than five hundred dollars ($500), nor more than one thousand five hundred dollars ($1,500).

(d) All fines imposed and collected pursuant to this section shall be allocated as follows:

(1) (A) Eighty percent of the moneys shall be deposited in the Abandoned Watercraft Abatement Fund, which is hereby created as a special fund. Moneys in the fund shall be used exclusively, upon appropriation by the Legislature, for grants to be awarded by the department to local agencies for the abatement, removal, storage, and disposal as public nuisances of any abandoned, wrecked, or dismantled vessels, or parts thereof, or any other partially submerged objects which pose a substantial hazard to navigation, from navigable waterways or adjacent public property, or private property with the landowner's consent. These grants shall not be utilized for abatement, removal, storage, or disposal of commercial vessels.

(B) In evaluating a grant request submitted by a local agency pursuant to subparagraph (A), the department shall place great weight on the following two factors:

(i) The existence of an active local enforcement program to control and prevent the abandonment of watercraft within the local agency's jurisdiction.

(ii) The existence of a submerged navigational hazard abatement plan at the local level which provides for the control or abatement of water hazards, including, but not limited to, abandoned watercraft, wrecked watercraft, hazardous floating debris, submerged vessels and objects, and abandoned piers and pilings.

(C) A grant awarded by the department pursuant to subparagraph (A) shall be matched by a 10-percent contribution from the local agency receiving the grant.

(2) Twenty percent shall be allocated as set forth in Section 1463.001 of the Penal Code.

SEC. 8. Section 526 is added to the Harbors and Navigation Code, to read:

526. (a) Notwithstanding any other provision of law, any wrecked property, or abandoned property as described in Section 522, or property removed from a navigable waterway pursuant to Section 523 or 524, may be sold or otherwise disposed of by the public

agency that removed or caused the removal of the property pursuant to this section, subject to the following conditions:

(1) The property has been appraised by disinterested persons, and has an estimated value of less than three hundred dollars ($300).

(2) There is no discernable registration, license, hull identification number, or other identifying insignia on the property, or the Department of Motor Vehicles is unable to produce any record of the registered or legal owners or lienholders.

(3) Not less than 72 hours before the property was removed, the peace officer or authorized public employee securely attached to the property a distinctive notice stating that the property would be removed by the public agency.

(4) Within 48 hours after the removal, excluding weekends and holidays, the public agency that removed or caused the removal of the property sent notice of the removal to the registered and legal owners, if known or discovered subsequent to the removal, at their addresses of record with the Department of Motor Vehicles, and to any other person known to have an interest in the property. A notice sent by the public agency shall be sent by certified or first-class mail.

(5) If the public agency is unable to locate the registered and legal owners of the property or persons known to have an interest in the property as provided in paragraph (4), the public agency published, or caused to be published, the notice of removal for at least two weeks in succession in one or more daily newspapers circulated in the county.

(b) The notice of removal required by paragraphs (3) to (5), inclusive, of subdivision (a) shall state all of the following:

(1) The name, address, and telephone number of the public agency providing the notice.

(2) A description of the property removed.

(3) The location from which the property is to be or was removed.

(4) The location of the intended or actual place of storage.

(5) The authority and purpose for removal of the property.

(6) A statement that the property may be claimed and recovered within 15 days of the date the notice of removal was issued pursuant to paragraph (4) or (5) of subdivision (a), whichever is later, after payment of any costs incurred by the public agency related to salvage and storage of the property, and that following the expiration of the 15-day period, the property will be sold or otherwise disposed of by the public agency.

(7) A statement that the registered or legal owners or any other person known to have an interest in the property have the opportunity for a poststorage hearing before the public agency that removed, or caused the removal of, the property to determine the validity of the removal and storage if a request for a hearing is made in person or in writing to that public agency within 10 days from the date of notice; that if the registered or legal owners or any other person known to have an interest in the property disagree with the

decision of the public agency, the decision may be reviewed pursuant to Section 11523 of the Government Code; and that during the time of the initial hearing, or during the time the decision is being reviewed pursuant to Section 11523 of the Government Code, the vessel in question shall not be sold or otherwise disposed of.

(c) (1) Any requested hearing shall be conducted within 48 hours of the time the request for a hearing is received by the public agency, excluding weekends and holidays. The public agency that removed the vehicle may authorize its own officers or employees to conduct the hearing but the hearing officer shall not be the same person who directed the removal and storage of the property.

(2) The failure of either the registered or legal owners or any other person known to have an interest in the property to request or attend a scheduled hearing shall not affect the validity of the hearing.

(d) The property may be claimed and recovered by its registered and legal owners, or by any other person known to have an interest in the property, within 15 days of the date the notice of removal was issued pursuant to paragraph (4) or (5) of subdivision (a), whichever is later, after payment of any costs incurred by the public agency related to salvage and storage of the property.

(e) The property may be sold or otherwise disposed of by the public agency not less than 15 days from the date the notice of removal was issued pursuant to paragraph (4) or (5) of subdivision (a), whichever is later, or the date of actual removal, whichever is later.

(f) The proceeds from the sale of the property, after deducting expenses for salvage, storage, sales costs, and any property tax liens, shall be deposited in the Abandoned Watercraft Abatement Fund for grants to local agencies, as specified in paragraph (1) of subdivision (d) of Section 525.

(g) It is the intent of the Legislature that this section shall not be construed to authorize the lien sale or destruction of any seaworthy vessel that is currently registered and operated in accordance with local, state, and federal law.

SEC. 9. Section 527 is added to the Harbors and Navigation Code, to read:

527. It is the intent of the Legislature that a sum of not more than one million dollars ($1,000,000) be appropriated from the Harbors and Watercraft Revolving Fund to the Abandoned Watercraft Abatement Fund for grants to local agencies pursuant to paragraph (1) of subdivision (d) of Section 525 in each fiscal year and that grants from the Abandoned Watercraft Abatement Fund be matched by not less than a 10-percent contribution from the local agency receiving the grant.

SEC. 10. The Controller shall transfer the sum of five hundred thousand dollars ($500,000) from the Harbors and Watercraft Revolving Fund to the Abandoned Watercraft Abatement Fund and that sum is hereby appropriated from the Abandoned Watercraft

Abatement Fund to the Department of Boating and Waterways for grants to local agencies, as specified in paragraph (1) of subdivision (d) of Section 525 of the Harbors and Navigation Code.

SEC. 11. In addition to the appropriation made in Section 10 of this act, the following one-time appropriation is also made. The sum of five hundred thousand dollars ($500,000) is hereby appropriated from the Harbors and Watercraft Revolving Fund to the City of Redwood City for cleanup of abandoned, wrecked, and dismantled vessels as described in paragraph (1) of subdivision (d) of Section 525 of the Harbors and Navigation Code. The Department of Boating and Waterways shall verify that the City of Redwood City has met the grant requirements specified in that paragraph.

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.

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## CHAPTER 931

An act to add Chapter 10 (commencing with Section 13890) to Title 6 of Part 4 of the Penal Code, relating to crime laboratories, and making an appropriation therefor.

[Approved by Governor October 12, 1997. Filed with Secretary of State October 12, 1997.]

On this day I have signed Assembly Bill No. 920.

This bill would appropriate $275,000 from the General Fund to the State Auditor to conduct an assessment of the needs of existing forensic science laboratories and report its findings to the Legislature by January 1, 1999. I have deleted the appropriation provided for in Section 2 of this bill.

This audit can be completed within the existing appropriation of General Fund resources ($10.1 million) made to the State Auditor and should be made a priority of the Joint Legislative Audit Committee.

PETE WILSON, Governor

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

SECTION 1. Chapter 10 (commencing with Section 13890) is added to Title 6 of Part 4 of the Penal Code, to read:

## CHAPTER 10. CALIFORNIA FORENSIC SCIENCE LABORATORY ENHANCEMENT PROGRAM

13890. It is the intent of the Legislature to review the needs assessment report, as provided for in Section 13892, prior to providing additional funds for support of local forensic laboratory services or improvements.

13891. This chapter shall be known and may be cited as the California Forensic Science Laboratory Enhancement Act.

13892. (a) The State Auditor shall conduct an assessment of the needs of existing forensic science laboratories.

(b) The assessment shall determine what changes, improvements, and augmentations are needed in laboratory procedures, personnel, programs, and facilities in order for the laboratories to become accredited or maintain existing accreditation by the American Society of Crime Laboratory Directors/Laboratory Accreditation Board, by January 1, 2004. The assessment shall identify specific changes, improvements, and augmentations for each of the laboratories, and shall include estimates of costs to implement the assessment and a schedule for implementation if funds become available.

The assessment shall also review the services currently provided by the laboratories as well as the relationship between the local forensic laboratories and the Department of Justice's regional forensic laboratories, including, but not limited to, consideration of alternatives to providing laboratory services, such as laboratories for provision of specialized services, use of private laboratories, and consolidation of services within existing state or local laboratories.

(c) In conducting the needs assessment, the State Auditor shall contract as necessary using the American Society of Crime Laboratory Directors as a resource. The State Auditor shall also establish an advisory committee composed of at least one representative of each of the following:

(1) California Association of Crime Laboratory Directors.
(2) California Police Chiefs Association.
(3) California State Sheriff's Association.
(4) California District Attorneys Association.
(5) The California State Association of Counties.
(6) The California League of Cities.
(7) The Department of Justice's Bureau of Forensic Services.
(8) The Judicial Council.

The advisory committee shall meet during the needs assessment and provide information and assistance to the State Auditor.

(d) The State Auditor shall submit a report to the Legislature on the needs assessment by January 1, 1999.

SEC. 2. There is hereby appropriated two hundred seventy-five thousand dollars ($275,000) from the General Fund to the State

Auditor to conduct the needs assessment of existing local forensic science laboratories required by Section 1 of this act.

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## CHAPTER 932

An act to add Article 3 (commencing with Section 79140) to Chapter 9 of Part 48 of the Education Code, relating to education.

[Approved by Governor October 12, 1997. Filed with Secretary of State October 12, 1997.]

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

SECTION 1. Article 3 (commencing with Section 79140) is added to Chapter 9 of Part 48 of the Education Code, to read:

### Article 3. Industry Internship and Apprenticeship Programs

79140. The Legislature hereby finds and declares as follows:

(a) A consensus exists among employment training professionals, economists, and industry experts concerning the serious mismatch that has developed between labor force skills and the needs of employers.

(b) Workplace skills training is most effective within a real workplace environment.

(c) Private sector industry internships and apprenticeship models successfully focus employment training on a specific job or set of skills, thereby meeting the precise needs of the labor market.

(d) Many high-growth industries, such as new media and biotechnology, are particularly suited to worksite-based learning because skills required by those industries involve the use of costly equipment and require continual upgrading.

79144. For the purposes of this article, the following definitions shall apply:

(a) "Apprenticeship program standards" means the written document containing, among other things, all the terms and conditions for the qualification, recruitment, selection, employment and training, working conditions, wages, employee benefits, and other compensation for apprentices and all other provisions and statements, including attachments, as required by the Labor Code and by Chapter 2 (commencing with Section 200) of Title 8 of the California Code of Regulations, which, when approved by the Chief of the Division of Apprenticeship Standards of the Department of Industrial Relations, shall constitute registration of these standards and authority to conduct that program of apprenticeship in this state.

(b) "Apprenticeship training program" means a comprehensive plan containing, among other things, apprenticeship program

standards, program regulations, related and supplemental instruction course outlines, and policy statements for the effective administration of that apprenticeship training program, in accordance with Chapter 2 (commencing with Section 200) of Title 8 of the California Code of Regulations.

(c) "Internship training program" means a planned series of educational training activities, paid or unpaid, in a specific or general occupational field.

79146. To the extent sufficient resources exist, the board of governors may establish internship training programs and actively support apprenticeship training programs in collaboration with the State Department of Education and the Division of Apprenticeship Standards. The board of governors may establish internship training programs pursuant to this section for only those occupations not covered by an apprenticeship training program approved by the Division of Apprenticeship Standards of the Department of Industrial Relations prior to January 1, 1998.

79148. (a) To the extent that sufficient federal funds and other resources are available, the Division of Apprenticeship Standards, in partnership with the State Department of Education and the California Community Colleges, shall develop and implement innovative apprenticeship training demonstration projects in high-growth industries in emerging and transitioning occupations that meet local labor market needs and that are validated by current labor market data.

(b) The Division of Apprenticeship Standards, in collaboration with the State Department of Education and the California Community Colleges, shall submit a report not later than December 31, 1998, to the Governor and the Legislature containing a summary of educational and vocational outcomes resulting from innovative apprenticeship training demonstration projects. The report shall include a status report on the number of participating registered apprentices as well as a statewide analysis and needs assessment regarding the extent that these apprenticeship training demonstration projects are meeting work force training needs in high growth industries.

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## CHAPTER 933

An act to add Article 10 (commencing with Section 87880) to Chapter 3 of Part 51 of the Education Code, relating to community colleges.

[Approved by Governor October 12, 1997. Filed with Secretary of State October 12, 1997.]

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

SECTION 1. Article 10 (commencing with Section 87880) is added to Chapter 3 of Part 51 of the Education Code, to read:

Article 10. Community College Part-Time Faculty Office Hours Program

87880. The Legislature finds and declares that community college part-time faculty are required to fulfill the same teaching responsibilities as full-time faculty although students have little or no access to part-time faculty members outside of the classroom. It is the intent of the Legislature that students have the same opportunity for academic assistance and guidance without regard to whether a course at a community college is taught by a full-time or a part-time faculty member. It is the further intent of the Legislature that community college part-time faculty teaching a minimum number of courses be compensated for providing academic counseling and assistance to students outside of the classroom.

87881. There is hereby established the Community College Part-Time Faculty Office Hours Program for the purpose of providing community college students equal access to academic advice and assistance and to encourage community college districts to provide opportunities by compensating part-time faculty who hold office hours related to their teaching load.

87882. For purposes of this article, "part-time faculty" means any person who is employed to teach for not more than 60 percent of the hours per week considered a full-time assignment for regular employees having comparable duties.

87883. (a) The governing board of a community college district may provide compensation for office hours to part-time faculty.

(b) The compensation to part-time faculty under this article shall equal one paid office hour for every two classes or more taught per week or 40 percent of a full-time load as defined by the community college district.

87884. (a) The governing board of each community college district that establishes a program pursuant to this article shall negotiate with the exclusive bargaining representative, or in instances where there is no bargaining unit shall meet and confer with the faculty, to establish a program to provide part-time faculty office hours.

(b) Any hours negotiated under this program shall not be applied towards the 60-percent requirement as specified in Section 87882.

(c) On or before June 1 of each year, each community college district participating in the program shall send a verification to the Chancellor of the California Community Colleges specifying the total costs of the compensation paid for office hours of part-time faculty participating in the program.

87885. (a) The Part-Time Faculty Office Hours Program Fund is hereby established in the State Treasury.

(b) On or before June 15 of each year, the Chancellor of the California Community Colleges shall apportion to each community college district that establishes a program pursuant to this article an amount equal to up to 50 percent of the total costs of the compensation paid for office hours of part-time faculty, as defined in Section 87882. The chancellor shall distribute funds that are appropriated in the annual Budget Act specifically for this purpose proportionally based on each district's total costs for office hours of part-time faculty pursuant to the verification submitted by the community college district in accordance with subdivision (c) of Section 87884 for that fiscal year. In no event, however, shall the allocation to any district in a fiscal year exceed 50 percent of the total costs of the compensation paid for office hours of part-time faculty pursuant to this article.

(c) It is the intent of the Legislature that funding for the purposes of this article be included in the annual Budget Act.

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## CHAPTER 934

An act to amend Section 44300 of, and to add Article 5.6 (commencing with Section 44305) to Chapter 2 of Part 25 of, the Education Code, relating to teacher credentialing.

[Approved by Governor October 12, 1997. Filed with Secretary of State October 12, 1997.]

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

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

(1) Approximately 100,000 teachers are employed in the elementary schools of the state.

(2) Approximately 1,100 of these teachers are in paid internships and receive systematic support and training as they advance toward full certification.

(3) In the 1995–96 school year, over 6,400 elementary teachers held emergency permits only. Most of these teachers have little experience and no preparation for their teaching responsibilities.

(4) As a result of the implementation of the Class Size Reduction program in the 1996–97 school year, the number of teachers with emergency permits in elementary classrooms is expected to reach 8,000 or more.

(5) Most of the unprepared and untrained teachers with emergency permits are employed in urban schools where pupils need the best trained and most effective teachers.

(6) As a general rule, teachers with emergency permits get very little training or support from the schools that employ them, in part because there are no resources directed to help this group of teachers. As a consequence, between 35 percent and 40 percent of all teachers with emergency permits in both elementary and secondary schools do not teach beyond the first year.

(b) The Legislature recognizes that the success of programs like the Class Size Reduction Program in the primary grades is dependent on the quality of the teachers who work in the schools.

(c) Therefore, it is the intent of the Legislature that all of the following occur:

(1) The commission examine the feasibility of better preparing and retaining pre-interns by providing them with early, focused, and intensive preparation in the subject matter they are assigned to teach and development in classroom management, pupil discipline, and basic instruction methodologies, and by assisting pre-interns to progress into a teacher internship program as expeditiously as possible.

(2) The innovation of replacing the emergency permit system with intensive pre-intern preparation and development be implemented through a process involving the granting of competitive grants to school districts.

(3) Regular reports be provided to the Legislature regarding the impact of the Pre-Internship Teaching Program, including a final report regarding whether the program should be continued, modified, or discontinued.

(d) Further, the Legislature recognizes that the success of a local program to assist in the development of unprepared and untrained teachers requires the cooperation and participation of governing boards, school administrators and the elected representatives of teachers.

(e) Therefore, it is also the intent of the Legislature that representatives of school boards, school administrators, and classroom teachers participate in the development and implementation of any program created to assist in the development of unprepared and untrained teachers.

SEC. 2. Section 44300 of the Education Code is amended to read:

44300. (a) Commencing January 1, 1990, the commission may issue or renew emergency teaching or specialist permits in accordance with regulations adopted by the commission corresponding to the credential types specified in paragraphs (1), (2), and (3) of subdivision (b) of Section 44225, provided that all of the following conditions are met:

(1) The applicant possesses a baccalaureate degree conferred by a regionally accredited institution of higher education and has fulfilled the subject matter requirements of Section 44301.

(2) The applicant passes the state basic skills proficiency test as provided for in Section 44252.

(3) The commission approves the justification for the emergency permit submitted by the school district in which the applicant is to be employed. The justification shall include all of the following:

(A) Documentation that the district has made a diligent search for, but has been unable to recruit, a sufficient number of certificated teachers, including teacher candidates pursuing full certification through internship, district internship, or other alternative routes established by the commission.

(B) A declaration of need for fully qualified educators based on the documentation set forth in subparagraph (A) and made in the form of a motion adopted by the governing board of the district or the county board of education at a regularly scheduled meeting of the governing board or the county board of education. The motion may not be part of the consent agenda and shall be entered in the minutes of the meeting.

(b) It is the intent of the Legislature that all of the following occur:

(1) The commission shall issue pre-intern certificates in place of emergency teaching permits as sufficient resources are made available to school districts to provide services pursuant to Article 5.6 (commencing with Section 44305) to pre-interns pursuing multiple subject or single subject teaching credentials.

(2) If the examination of the Pre-internship Teaching Program required by this chapter demonstrates that the program should continue because it has been successful in better preparing and retaining pre-intern teachers than the emergency permit system, sufficient resources to fully fund the Pre-Internship Teaching Program shall be appropriated by July 2002. For purposes of this paragraph, two thousand dollars ($2,000) in state funding per pre-intern shall be deemed to be sufficient resources.

(3) The commission shall continue to issue emergency teaching permits to individuals employed by school districts defined in regulations as remote from regionally accredited institutions of higher education.

(c) Commencing January 1, 1990, the commission may issue and reissue emergency permits corresponding to the credential types specified in paragraph (4) of subdivision (b) of Section 44225. The commission shall establish appropriate standards for each type of emergency permit specified in paragraph (4) of subdivision (b) of Section 44225.

(d) The exclusive representative of certificated employees, if any, as provided under Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, may submit a written statement to the commission agreeing or disagreeing with the justification submitted to the commission pursuant to paragraph (3) of subdivision (a).

(e) Commencing January 1, 1990, a person holding an emergency teaching or specialist permit shall attend an orientation to the curriculum and to techniques of instruction and classroom

management, and shall teach only with the assistance and guidance of a certificated employee of the district who has completed at least three years of full-time teaching experience, or the equivalent thereof. It is the intent of the Legislature to encourage districts to provide directed teaching experience to new emergency permitholders with no prior teaching experience.

(f) The holder of an emergency permit shall participate in ongoing training, coursework, or seminars designed to prepare the individual to become a fully credentialed teacher or other educator in the subject area or areas in which he or she is assigned to teach or serve. The employing agency shall verify that employees applying to renew their emergency permits are meeting these ongoing training requirements.

(g) Emergency permits for pupil personnel services shall not be valid for the purpose of determining pupil eligibility for placement in any special education class or program.

(h) This section shall not apply to the issuance of an emergency substitute teaching permit, or of an emergency permit to a teacher who has consented to teach temporarily outside of his or her field of certification, for which the commission shall establish minimum requirements.

SEC. 3. Article 5.6 (commencing with Section 44305) is added to Chapter 2 of Part 25 of the Education Code, to read:

Article 5.6. California Pre-Internship Teaching Program

44305. (a) As resources are available to school districts to provide services to any pre-intern pursuant to this article, the commission may issue a pre-intern teaching certificate instead of an emergency multiple subjects permit to an individual employed by a school district approved by the commission who meets the minimum requirements set by the commission. When resources remain after funding pre-interns pursuing multiple subject emergency permits, the commission may issue a pre-intern teaching certificate instead of an emergency single subject permit to an individual employed by a school district approved by the commission who meets the minimum requirements set by the commission. In implementing the Pre-Internship Teaching Program, the commission shall consult with representatives of the State Department of Education, classroom teachers, school administrators, other school employees, parents, school board members, and institutions of higher education.

(b) The pre-intern teaching certificate issued by the commission shall be valid for one year, but may be renewed for one additional year if the holder takes the appropriate subject matter examination required under Section 44282. A pre-intern teacher who passes the subject matter examination in the first or second year of his or her pre-intern teaching shall enroll in a district or university teaching internship or other approved university teaching credential

program. A pre-intern teaching certificate may be renewed for a third year if the employing school district, the cooperating college or university, and the pre-intern support the application for renewal.

(c) The minimum requirements for the pre-intern teaching certificate established by the commission shall include all of the following:

(1) A baccalaureate or higher degree conferred by a regionally accredited institution of higher education.

(2) Passage of the basic skills proficiency test as provided for in Section 44252.

(3) The number of units, as set by the commission, in the subject to be taught.

(d) The commission shall establish criteria for the approval of pre-intern teaching programs. The criteria shall include, but is not limited to, all of the following:

(1) Demonstrated need, as indicated by the percentage of teachers in the district that have not completed basic credential requirements pursuant to state law.

(2) The quality of the preparation, support, and assistance to be provided to teaching pre-interns.

(3) Cost effectiveness, including the number of pre-interns to be served.

(4) Collaboration between district administrators and experienced teachers with permanent status in the development of the plan.

(5) District and college or university collaboration to ensure availability of courses needed by pre-intern teachers.

(6) Pre-intern preparation content, including lesson planning, classroom management and organization, and a schedule for delivering the preparation, with a focus on beginning the preparation before or during the first semester of the pre-internship.

(7) The role of personnel, including experienced teachers with permanent status, in the delivery of pre-intern preparation and support.

(8) That no later than the second year of employment the program for each pre-intern shall reflect the California Standards for the Teaching Profession jointly developed by the commission and the State Department of Education.

(9) Approval of the district plan by the governing board of the school district.

(e) In establishing criteria for review of pre-intern teaching programs pursuant to subdivision (d), the commission shall make every effort to recognize effective district programs for the support and development of emergency permit teachers in operation before July 1, 1998, as meeting the pre-intern teaching program criteria.

(f) A school district may apply to the commission for funding under this article. Based on the criteria in subdivision (d), developed pursuant to the consultation process required by subdivision (a), the

commission shall determine which applicants are approved for funding. If funds are provided for this act from the federal Goals 2000: Educate America Act (P.L. 103-227), the commission shall transmit a list of approved applicants to the State Department of Education which shall award grants in a timely manner exclusively to those school districts that the commission has approved for funding, in the amounts listed, with no school district receiving more than two thousand dollars ($2,000) per pre-intern employed by the school district.

44306. The commission shall submit an interim report to the Legislature and the Legislative Analyst no later than October 1, 2000, and a final report no later than October 1, 2001, to include the following information regarding the Pre-Internship Teaching Program:

(1) The number of participating school districts and pre-intern teachers served.

(2) The impact of the program on decreasing the number of emergency permits issued.

(3) The retention rates of pre-intern teachers, as compared to the retention rates of emergency permitholders.

(4) The success rates of pre-intern teachers, by year of participation in the program, in meeting requirements for subject matter knowledge required by law.

(5) Assessments by pre-interns of the effectiveness of the pre-intern preparation, support and assistance provided.

(6) A description of in-kind contributions to the pre-intern teaching program provided by participating school districts.

(7) Recommendations regarding whether the Pre-Internship Teaching Program should be continued, modified, or discontinued, including reasons for those recommendations.

44307. This article shall be known and may be cited as the Pre-Internship Teaching Program.

44307.5. The commission shall not require any school district to provide pre-internship services to any individual holding an emergency substitute teaching permit, any teacher who has completed most of the requirements for a preliminary teaching credential, or any teacher who holds a limited assignment emergency permit as a result of consenting to teach temporarily outside of his or her field of certification.

44308. (a) Funding for the purposes of administering the program established pursuant to this article is contingent upon an appropriation in the Budget Act or other act when specified.

(b) It is the intent of the Legislature that federal funding provided to the State Department of Education and the Commission on Teacher Credentialing in Item 6110-001-0890 and 6360-001-0407 be adjusted to provide direct funding for the Commission on Teacher Credentialing for the purposes of the Pre-Internship Teaching Program and the California Paraprofessional Teacher Training

Program. The Department of Finance shall make any such adjustments using authority of Section 1.50 of the Budget Act of 1997.

(c) If funds are provided for this act from the federal Goals 2000: Educate America Act (P.L. 103-227) and if the provisions of this article do not meet the requirements of that federal act, the State Department of Education shall be held harmless for any fiscal penalty exacted by the federal government for the expenditures made by local education agencies or for state operations.

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## CHAPTER 935

An act to add Article 5 (commencing with Section 49350) to Chapter 8 of Part 27 of the Education Code, relating to education.

[Approved by Governor October 12, 1997. Filed with Secretary of State October 12, 1997.]

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

SECTION 1. Article 5 (commencing with Section 49350) is added to Chapter 8 of Part 27 of the Education Code, to read:

### Article 5. Community Policing and Mentoring for School Safety Pilot Program

49350. (a) The Legislature finds and declares all of the following:

(1) Studies have shown that indicators of risk for violence are associated with a child's experiences at school. Antisocial behavior or aggressiveness, which is sometimes combined with isolation, withdrawal, hyperactivity, or attention deficit disorder, places children at increased risk of violence.

(2) These children are at risk of persistent antisocial behavior, such as skipping school, getting into fights, and misbehaving in class. Young people of both genders who engage in these activities are at increased risk of experiencing drug abuse, juvenile delinquency, violence, dropping out of school, and teen pregnancy.

(3) It is well-known that some youth, even though exposed to multiple risk factors, do not succumb to violent, antisocial behavior. One of the defining factors for this outcome is bonding—positive relationships with family members, teachers, police officers, sheriffs' deputies, and other adults.

(4) The Community Policing and Mentoring for School Safety Pilot Program brings this successful law enforcement strategy to California's schools. By providing funding assistance, strict participation guidelines and assessments, the Community Policing and Mentoring for School Safety Pilot Program will bring highly trained law enforcement officers onto school campuses to work with

students during and after school. Community policing in schools will provide the necessary opportunities for students' active involvement in positive activities, as well as trained personnel to teach them skills so that they may pursue later opportunities successfully. Community policing in schools provides a consistent system of recognition and reinforcement of positive behavior.

(5) Many school safety approaches, including metal detectors, drug-sniffing dogs, armed private security personnel, and similar security measures, are more one-dimensional in their approach to school safety. The Community Policing and Mentoring for School Safety Pilot Program takes a multidimensional approach by involving the community, schools, parents or guardians, and law enforcement personnel in the design of the program that will serve their schools. The relationships developed, as a result of this process and the programs themselves, will be a strong preventative alternative to antisocial behavior in California's schools.

(b) As used in this article, "community policing" means an approach to crime prevention that is founded on developing positive relationships between law enforcement and the community. In community policing, law enforcement becomes an integral facet of the community because officers work directly with the community and develop positive relationships with members of the community. Community members become more involved in their community's activities because they know they have the personal support of law enforcement. Community policing identifies factors that put young people at risk for violence in order to reduce or eliminate these factors and strengthen protective factors such as positive relationships with adults.

49350.5. (a) In order to ensure that students enrolled in the California public schools attend campuses that are safe, secure, orderly, and purposeful places in which students and staff are free to learn and teach without the threat of physical or psychological harm, it is the intent of the Legislature that two-year grants be provided to the ABC Unified School District and the Downey Unified School District to establish community policing school safety and mentoring programs.

(b) Grants under this article shall be awarded in order to develop and implement a plan that accomplishes both of the following:

(1) Provision for a continuum of responses to school safety needs by employees of school districts and local law enforcement agencies.

(2) Demonstration of a collaborative and integrated approach for implementing a system of providing safe and secure school environments between the school districts and local law enforcement agencies.

(c) Grant funds shall be expended as determined by the multiagency juvenile justice coordinating council, established pursuant to subdivision (b) of Section 49351.

(d) Grants under this article shall not be used to provide funding for school resource officers.

49351. (a) (1) The Community Policing and Mentoring for School Safety Pilot Program is hereby established. The Community Policing and Mentoring for School Safety Pilot Program shall be administered by the State Department of Education for the purpose of reducing juvenile crime and delinquency. The Superintendent of Public Instruction shall award grants to the ABC Unified School District and the Downey Unified School District to accomplish the goals set forth in subdivision (b) of Section 49350.5.

(2) Programs funded pursuant to this article may include, but not necessarily be limited to, all of the following methods of community policing:

(A) Teaching conflict resolution classes.

(B) Teaching crime prevention classes.

(C) Operating afterschool programs.

(D) Provide mentoring.

(E) Patrolling the community that encompasses the school district participating in the Community Policing and Mentoring for School Safety Pilot Program.

(b) Each school district that receives a grant under this article shall be required to establish a multiagency juvenile justice coordinating council that shall develop and implement a continuum of community-based responses to juvenile crime in the school setting.

(c) The coordinating councils established pursuant to subdivision (b) shall, at a minimum, include the school district, law enforcement agency, a volunteer police representative, parents, and at least two community organizations. The coordinating councils shall develop a comprehensive, multiagency plan that identifies resources and strategies for providing an effective targeted community policing plan, for activities relating to prevention, intervention, supervision, and treatment of at-risk youths in school settings.

49352. The coordinating council established pursuant to subdivision (b) of Section 49351 shall accomplish all of the following:

(a) Complete an identification and prioritization of the schools, and other areas in the community, that face a significant public safety risk from juvenile crime, such as gang activity, daylight burglary, late-night robbery, vandalism, truancy, controlled substance sales, firearm-related violence, and juvenile alcohol use within the council's jurisdiction.

(b) Develop information and intelligence sharing systems to ensure that school districts actions are fully coordinated with local law enforcement agencies, and to provide data for measuring the success of the grantee in achieving its goals. The plan shall develop goals related to the outcome measures that shall be used to determine the effectiveness of the program, at participating pilot sites.

(c) Identify outcome measures which shall include, but not necessarily be limited to, each of the following:

(1) The rate of drug- and alcohol-related offenses.
(2) The rate of crimes against persons.
(3) The rate of crimes against property.
(4) Incidence of students in possession of firearms or other weapons.

49353. (a) The State Department of Education shall award grants under this article to implement the plan developed pursuant to subdivision (b) of Section 49350.5 for a two-year period. Funding shall be used to supplement, rather than supplant, existing programs. Grant funds shall be used for programs that are identified in the local action plan as part of a continuum of responses to reduce juvenile crime and delinquency in a school setting. In no case shall the total amount of grant funds for the two-year period exceed two hundred thousand dollars ($200,000).

(b) (1) No grant shall be awarded unless the applicant does both of the following:

(A) Makes matching funds available in an amount equal to 50 percent or more of the amount of the grant.

(B) Demonstrates a commitment by local law enforcement agencies or other participating agencies to contribute matching funds in an amount equal to 50 percent or more of the amount of the grant.

(2) For purposes of this section, credit towards the matching fund requirement may be granted in an amount equal to the value of an in-kind contribution made on behalf of the school district or on behalf of a law enforcement agency or another participating agency.

49354. The State Department of Education shall establish minimum standards, funding schedules, and procedures for grants, which shall take into consideration, but not necessarily be limited to, all of the following:

(a) Size of the eligible high-risk youth population.
(b) Demonstrated ability to administer the program.
(c) Demonstrated ability to provide and develop a continuum of responses to juvenile crime and delinquency that includes prevention, intervention, diversion, suppression, and incapacitation.
(d) Demonstrated ability to implement a plan that provides a collaborative and integrated approach to juvenile crime and delinquency in a school setting.
(e) Demonstrated history of maximizing federal, state, local, and private funding sources.
(f) Likelihood that the program will continue to operate after state grant funding ends.

49355. The State Department of Education shall create an evaluation design for the Community Policing and Mentoring for School Safety Pilot Program. School districts that receive grants under this article shall use this evaluation design to assess the effectiveness of their programs. These school districts shall transmit their assessments to the department. The department shall develop

an interim report to be submitted to the Legislature on or before March 1, 2000, and a final analysis of the grant program in a report to be submitted to the Legislature on or before March 1, 2002.

SEC. 2. It is the intent of the Legislature that the Community Policing and Mentoring for School Safety Pilot Program established by this act be funded by a combination of funds from the state and from local school districts and law enforcement agencies. The operation of this program shall be contingent upon the enactment of an appropriation therefor in the annual Budget Act, or through an appropriation contained in another measure enacted during the 1997–98 Regular Session.

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## CHAPTER 936

An act to add Chapter 7 (commencing with Section 60810) to Part 33 of the Education Code, relating to pupil testing.

[Approved by Governor October 12, 1997. Filed with Secretary of State October 12, 1997.]

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

SECTION 1. Chapter 7 (commencing with Section 60810) is added to Part 33 of the Education Code, to read:

### CHAPTER 7. ASSESSMENT OF LANGUAGE DEVELOPMENT

60810. (a) (1) The Superintendent of Public Instruction shall review existing tests that assess the English language development of pupils whose primary language is a language other than English. The tests shall include, but not be limited to, an assessment of achievement of these pupils in English reading, speaking, and written skills. The superintendent shall determine which tests, if any, meet the requirements of subdivisions (b) and (c). If any existing test or series of tests meets these criteria, the superintendent, with approval of the State Board of Education, shall report to the Legislature on its findings and recommendations.

(2) If no suitable test exists, the superintendent shall explore the option of a collaborative effort with other states to develop a test or series of tests and share test development costs. If no suitable test exists, the superintendent, with approval of the State Board of Education, may contract with a local education agency to develop a test or series of tests that meets the criteria of subdivisions (b) and (c) or may contract to modify an existing test or series of tests so that it will meet the requirements of subdivisions (b) and (c).

(3) The superintendent shall identify or develop the test or series of tests by January 1, 1999, and shall report to the Legislature

regarding the progress being made in identifying or developing the test or series of tests by June 1, 1998. The report shall include recommendations to the Legislature regarding the implementation of the test or series of tests at the local level, including required resources.

(b) The test or series of tests developed or acquired pursuant to subdivision (a) shall have sufficient range to assess pupils in kindergarten and grades 1 to 12, inclusive, in English reading, speaking, and written skills, except that pupils in kindergarten and grade 1 shall be assessed in reading and written communication only to the extent that comparable standards and assessments in English and language arts are used for native speakers of English.

(c) The test or series of tests shall meet all of the following requirements:

(1) Provide sufficient information about pupils at each grade level to determine levels of proficiency ranging from no English proficiency to fluent English proficiency with at least two intermediate levels.

(2) Have psychometric properties of reliability and validity deemed adequate by technical experts.

(3) Be capable of administration to pupils with any primary language other than English.

(4) Be capable of administration by classroom teachers.

(5) Yield scores that allow comparison of a pupil's growth over time, can be tied to readiness for various instructional options, and can be aggregated for use in the evaluation of program effectiveness.

(6) Not discriminate on the basis of race, ethnicity, or gender.

(7) Be aligned with the standards for English language development adopted by the State Board of Education pursuant to Section 60811.

(d) The test shall be used for the following purposes:

(1) To identify pupils who are limited English proficient.

(2) To determine the level of English language proficiency of pupils who are limited English proficient.

(3) To assess the progress of limited-English-proficient pupils in acquiring the skills of listening, reading, speaking, and writing in English.

60811. The State Board of Education shall approve standards for English language development for pupils whose primary language is a language other than English. The standards shall be comparable in rigor and specificity to the standards for English language arts adopted pursuant to Section 60605 in speaking, reading, and written communication.

SEC. 2. Funding for the purposes of Chapter 7 (commencing with Section 60810) of Part 33 of the Education Code as enacted by this act is contingent on an appropriation in the annual Budget Act. It is the intent of the Legislature that funds appropriated for the purposes of contracting for the development of tests pursuant to

paragraph (1) of subdivision (a) of Section 60810 of the Education Code shall constitute moneys applied by the state for the support of school districts for the purposes of Section 8 of Article XVI of the California Constitution.

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## CHAPTER 937

An act to amend and renumber Section 44279.2 of, to amend the heading of Article 4.5 (commencing with Section 44279.2) of Chapter 2 of Part 25 of, and to add Sections 44001.1, 44001.2, 44279.2, and 44279.7 to, the Education Code, relating to teacher credentialing, and making an appropriation therefor.

[Approved by Governor October 12, 1997. Filed with Secretary of State October 12, 1997.]

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

SECTION 1. Section 44001.1 is added to the Education Code, to read:

44001.1. "Commission" means the Commission on Teacher Credentialing.

SEC. 2. Section 44001.2 is added to the Education Code, to read:

44001.2. "Superintendent" means the Superintendent of Public Instruction.

SEC. 3. The heading of Article 4.5 (commencing with Section 44279.2) of Chapter 2 of Part 25 of the Education Code is amended to read:

Article 4.5. Beginning Teacher Support and Assessment System

SEC. 4. Section 44279.2 of the Education Code is amended and renumbered to read:

44279.1. (a) The Legislature finds and declares that the beginning years of a teacher's career are a critical time in which it is necessary that intensive professional development and assessment occur. The Legislature recognizes that the public invests heavily in the preparation of prospective teachers, and that more than half of all new teachers leave some California school districts after one or two years in the classroom. Intensive professional development and assessment are necessary to build on the preparation that precedes initial certification, to transform academic preparation into practical success in the classroom, to retain greater numbers of capable beginning teachers, and to remove novices who show little promise as teachers. It is the intent of the Legislature that the commission and the superintendent develop and implement policies to govern the

support and assessment of beginning teachers, as a condition for the professional certification of those teachers in the future.

(b) There is hereby established the California Beginning Teacher Support and Assessment System, to be administered jointly by the commission and the superintendent. In administering the program, the commission and the superintendent shall approve the most cost-effective programs of support and assessment. The commission and the superintendent shall also ensure that programs meet the Standards of Quality and Effectiveness for Beginning Teacher Support and Assessment adopted by the commission in 1997 and that local programs support beginning teachers in meeting the competencies described in the California Standards for the Teaching Profession adopted by the commission in January 1997. The system shall do all of the following:

(1) Provide an effective transition into the teaching career for first-year and second-year teachers in California.

(2) Improve the educational performance of pupils through improved training, information, and assistance for new teachers.

(3) Enable beginning teachers to be effective in teaching pupils who are culturally, linguistically, and academically diverse.

(4) Ensure the professional success and retention of new teachers.

(5) Ensure that a support provider provides intensive individualized support and assistance to each participating beginning teacher.

(6) Improve the rigor and consistency of individual teacher performance assessments and the usefulness of assessment results to teachers and decisionmakers.

(7) Establish an effective, coherent system of performance assessments that are based on the California Standards for the Teaching Profession adopted by the commission in January 1997.

(8) Examine alternative ways in which the general public and the educational profession may be assured that new teachers who remain in teaching have attained acceptable levels of professional competence.

(9) Ensure that an individual induction plan is in place for each participating beginning teacher and is based on an ongoing assessment of the development of the beginning teacher.

(10) Ensure continuous program improvement through ongoing research, development, and evaluation.

(c) Participation in the program shall be voluntary for teachers, school districts, and county offices of education and participation by certificated employees shall not be made a condition of employment. The commission and the superintendent shall adopt and implement criteria and standards for participation in the program, including criteria regarding the eligibility of teachers and standards of local program quality and intensity for schools, school districts, county offices of education, colleges, universities, and other educational and

professional organizations. The criteria and standards shall be consistent with the purposes of the program.

(d) For the purpose of this article, unless the context otherwise requires, “beginning teacher,” means a teacher with a valid California credential, as defined in Section 44259, or an intern participating in the program established pursuant to Article 11 (commencing with Section 44380) of Chapter 2.5, who is serving in the first year or second year of service.

(e) For a beginning teacher who holds a professional clear teaching credential that is subject to the requirements of subdivisions (b) and (c) of Section 44277, participation in the program may, at the teacher’s discretion, serve as part or all of the individual program of professional growth.

(f) The superintendent and the commission shall disseminate the California Standards for the Teaching Profession adopted by the commission in January 1997 to colleges, universities, school districts, county offices of education, and professional associations, who shall be encouraged to use the standards in efforts to improve teacher preparation and support programs. Performance assessments developed under this article shall be designed to provide useful, helpful feedback to beginning teachers and their support providers. That information shall not be used for employment-related evaluations, as a condition of employment, or as a basis for terminating employment.

(g) It is the intent of the Legislature that the commission and the superintendent establish a statewide teacher induction program that supports locally designed, high quality induction programs that provide individualized support and formative assessment for all participating beginning teachers as defined in subdivision (d). At the discretion of the local beginning teacher support and assessment system teacher induction program, funds allocated to a program on the basis of eligible beginning teachers may be used to provide support, assistance, and preparation services to other credential candidates who are in their first or second year of employment as a classroom teacher.

SEC. 5. Section 44279.2 is added to the Education Code, to read:

44279.2. (a) The superintendent and the commission shall jointly administer the Beginning Teacher Support and Assessment System pursuant to this chapter. In administering this section, the superintendent and the commission shall provide for or contract for all of the following:

(1) Establishment of requirements for reviewing and approving teacher induction programs.

(2) Development and administration of a system for ensuring teacher induction program quality and effectiveness. For the purposes of this section, “program effectiveness” means producing excellent program outcomes in relation to the purposes defined in subdivision (b) of Section 44279.1. For the purposes of this section,

"program quality" means excellence with respect to program factors, including, but not limited to, all of the following:

(A) Program goals.

(B) Design resources.

(C) Management, evaluation, and improvement of the program.

(D) School context and working conditions.

(E) Support and assessment services to each beginning teacher.

(3) Developing purposes and functions for reviewing and approving supplemental grants and standards for program clusters and program consultants, as defined pursuant to Section 44297.7.

(4) Improving and refining the formative assessment system.

(5) Improving and refining professional development materials and strategies for all personnel involved in implementing induction programs.

(6) Conducting and tracking research related to beginning teacher induction.

(7) Evaluating the effectiveness of the Beginning Teacher Support and Assessment System two years following full implementation and reporting the findings to the Legislature. An interim report shall be provided to the Legislature not later than January 1, 2000, if full funding has not been provided prior to that date. For the purpose of this section, "system effectiveness" means producing excellent system outcomes in relation to the purposes defined in subdivision (b) of Section 44279.

(8) Periodically evaluating the validity of the California Standards for the Teaching Profession adopted by the commission in January 1997 and the Standards of Quality and Effectiveness for Beginning Teacher Support and Assessment Program adopted by the commission in 1997 and making changes to those documents, as necessary.

(b) As part of the Beginning Teacher Support and Assessment System, the commission and the superintendent shall establish requirements for local teacher induction programs.

(c) A school district or consortium of school districts may apply to the superintendent for funding to establish a local teacher induction program pursuant to this section. From amounts appropriated for the purposes of this section, the superintendent shall allocate three thousand dollars ($3,000) for each beginning teacher participating in the program. Commencing with the 1998–99 fiscal year and each fiscal year thereafter that amount shall be adjusted by the inflation factor set forth in Section 42238.1. To be eligible to receive funding, a school district or consortium of school districts shall, at a minimum, meet all of the following requirements:

(1) Develop, implement, and evaluate teacher induction programs that meet the Quality and Effectiveness for Beginning Teacher Induction Program Standards adopted by the commission in 1997.

(2) Support beginning teachers in meeting the competencies described in the California Standards for the Teaching Profession, adopted by the commission in January 1997.

(3) Meet criteria for the cost-effective delivery of program services pursuant to subdivision (a) of Section 44279.

(4) From amounts received for the Mentor Teacher Program pursuant to Article 4 (commencing with Section 44490) of Chapter 2, or from other local, state, or resources available for the purposes of teacher induction programs, contribute not less than two thousand dollars ($2,000) for the costs of each beginning teacher served in the induction program.

SEC. 6. Section 44279.7 is added to the Education Code, to read:

44279.7. (a) The superintendent and the commission shall award supplemental grants on a competitive basis to Beginning Teacher Support and Assessment System teacher induction programs established pursuant to Section 44279.2 that are identified as having expertise according to criteria established by the superintendent and the commission. The supplemental grants received pursuant to this section shall be expended to assist clusters of teacher induction programs operated by school districts or consortiums of school districts.

(b) The superintendent and the commission shall designate each school district and consortium of school districts participating in the Beginning Teacher Support and Assessment System established pursuant to Section 44279.2 as belonging to a cluster according to the criteria established pursuant to this subdivision. For the purposes of this section "cluster" means a cluster of school districts or consortium of school districts established pursuant this section. The superintendent and the commission shall establish criteria for the formation of school districts or consortiums of school district teacher induction program clusters based upon, but not necessarily be limited to, all of the following:

(1) Geographic proximity.

(2) Program size.

(3) The number of beginning teachers served.

(4) The similarity of teacher characteristics and pupil populations in each school district.

(c) School districts and consortiums of school districts awarded supplemental grants pursuant to this section shall identify a teacher induction program consultant to assist the school district or consortiums of school districts forming a cluster. The superintendent and the commission shall identify the purpose and functions of each consultant. Those purposes and functions shall include, but not necessarily be limited to, all the following:

(1) Assisting in designing, implementing, refining, and evaluating their teacher induction programs.

(2) Assisting in building the capacity to provide professional development for all personnel involved in the implementation of

teacher inductions programs, including, but not limited to, beginning teachers, support providers, and administrators.

(3) Disseminating information on teacher induction programs to all interested participants within the cluster and collaborating with other consultants statewide and with state administrative agency staff to ensure ongoing program improvement.

(d) The superintendent and the commission shall ensure that each grant awarded pursuant to this section supports the salary and benefits and other related costs based on the prorated amount of time dedicated to this function for a consultant to assist each cluster.

SEC. 7. (a) It is the intent of the Legislature that the appropriation made for the administration of Section 44279.2 of the Education Code each fiscal year shall be made from funds that are not designated as meeting the state's minimum funding obligation under Section 8 of Article XVI of the California Constitution (non-Proposition 98 funds), and shall amount to not more than 3 percent of the total amount appropriated for the purposes of that section. It is further the intent of the Legislature that the Superintendent of Public Instruction and the Commission on Teacher Credentialing each shall be entitled to expend 50 percent of the amount available for the state level administration of the program.

(b) It is the intent of the Legislature that amounts be appropriated in the annual Budget Act for the purposes of funding teacher induction program consultants to assist the clusters of school districts and consortium of school districts formed pursuant to Section 44279.7 of the Education Code in developing and administering new and existing programs pursuant to Sections 44279.1 and 44279.7 of the Education Code.

(c) The number of beginning teachers to be served by Section 44279.1 of the Education Code in each fiscal year shall be determined by data from the previous year's CBEDS reports submitted by school districts to the State Department of Education. For purposes of this subdivision, "CBEDS report" means the report transmitted by school districts to the State Department of Education for purposes of the California Basic Education Data System that exists within the department and is based upon a single annual collection of data about school staff and pupil enrollment conducted by the department for reporting, program management, and planning purposes.

(d) The Superintendent of Public Instruction and the Commission on Teacher Credentialing shall develop a funding plan for the purposes of this section, and report that plan to the Legislature.

(e) The amount appropriated for the purposes of subdivision (c) of Section 44279.2 of the Education Code shall be based on a grant amount of three thousand dollars ($3,000) for each beginning teacher participating in the program, as adjusted for cost of living.

(f) State funding for participation in the Beginning Teacher Support and Assessment Program by teachers who are credentialed pursuant to Section 44259 of the Education Code is limited to two years, or until the teacher has met state expectations for successful completion of teacher induction developed jointly by the Commission on Teacher Credentialing and the superintendent, whichever occurs first.

(g) State funding for participation in the Beginning Teacher Support and Assessment Program by interns who are participating in the program established pursuant to Article 11 (commencing with Section 44380) of Chapter 2 of Part 25 of the Education Code is limited to one year, either during or after completion of the internship, or until the intern has met state expectations for successful completion of teacher induction developed jointly by the Commission on Teacher Credentialing and the superintendent, whichever occurs first.

(h) State funding shall not be provided for the Beginning Teacher Support and Assessment Program for teachers who previously were funded to participate in the program while also participating as interns in the program established pursuant to Article 11 (commencing with Section 44380) of Chapter 2 of Part 25 of the Education Code.

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## CHAPTER 938

An act to add Section 15333.4 to, and to repeal and add Section 15333.3 of, the Government Code, relating to the space industry.

[Approved by Governor October 12, 1997. Filed with Secretary of State October 12, 1997.]

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

SECTION 1. Section 15333.3 of the Government Code is repealed.

SEC. 2. Section 15333.3 is added to the Government Code, to read:

15333.3. (a) The California Space and Technology Alliance shall exist to foster the development of activities in California related to space flight including, but not limited to, space vehicle launches, space education and job training infrastructure and research launches, manufacturing, academic research, applied research, economic diversification, business development, tourism, and education. The alliance shall also function as the California Spaceport Authority.

(b) The alliance shall be an official recipient of grants from federal, state, or local government or from private businesses or

individuals, for California space flight-related activities, including, but not limited to, studies, services, infrastructure improvements and modernization, and defense transition programs to the extent permitted by law. Any other entity legally eligible may also receive grant funds for these purposes.

(c) The alliance shall be an advocate in support of California space flight-related activities, including, but not limited to, the businesses, facilities, programs, developments, alterations, modifications, educational activities, and other programs impacting those activities.

(d) To the extent authorized under the Internal Revenue Code, the alliance shall define and promote changes in federal, state, and local statutes and regulations that will enhance the development of California space flight-related activities.

(e) (1) To the extent authorized under the Internal Revenue Code, the alliance shall report on the economic and employment impacts of California space flight-related activities to the Governor and the Legislature and other state agencies and commissions developing laws, regulations, decisions, or determinations affecting those activities.

(2) The alliance shall recommend to the Governor and the Legislature appropriate state funding mechanisms and amounts to promote development of California space flight-related activities.

(f) With regard to the development of California space flight-related activities, the alliance shall provide recommendations to the Governor and the Legislature in the form of strategic planning documents, and shall act as the official policy advisor to the Governor and the Legislature.

(g) On matters relating to space flight-related activities, the alliance shall act as the official representative of state government to the federal government, other state governments, local government agencies, and the private sector.

(h) The alliance shall review space flight-related grant applications on behalf of the Trade and Commerce Agency, the Department of Transportation, and all other state agencies, and shall make recommendations to the agency for award of those grants.

(i) The alliance shall act as a clearinghouse for space flight-related issues and information.

(j) The alliance may perform the activities listed in Section 15346.6.

(k) In accordance with the California Defense Conversion Act of 1993 (Article 3.7 (commencing with Section 15346)) and with the cooperation of the California Defense Conversion Council, the alliance shall coordinate with Regional Technology Alliances in the development of California space flight-related activities to achieve the optimum utilization of defense conversion and other grant funds.

(*l*) The alliance shall foster and promote activities related to space flight in all parts of California, and all of its actions shall be taken to benefit the entire State of California.

(m) The alliance shall be a membership organization open to any person or business interested in California space flight-related activities. It shall be organized as a nonprofit corporation with a board of directors composed of no less than 15, but no more than 27 members. Each director shall serve a three-year term, and shall serve no more than three consecutive terms. Board members shall be selected by the alliance, with no more than 40 percent selected from the space flight industry, no more than 30 percent from local government agencies, and no more than 30 percent from the general public and industries other than space flight. Residents of San Luis Obispo and Santa Barbara Counties shall be selected to fill 50 percent plus one of the director positions, with residents of other counties being selected to fill the remaining positions. Nonvoting, ex-officio board directors may be added at the discretion of the board.

(n) The alliance acting as a corporation may not engage in or hold stock or any controlling interest in for-profit endeavors relating to space flight-related activities.

(o) The alliance shall be accountable to the Secretary of Trade and Commerce and shall provide the secretary with quarterly reports of its activities and finances. The agency shall provide guidance and support to the alliance.

(p) The California Space Flight Competitive Grant Program is hereby established to provide funding, upon appropriation by the Legislature, for the development of activities in California related to space flight. For purposes of this section, space flight activities shall include civil or commercial space transportation systems, new or improved space infrastructure, related space support services, or any additional activities that the alliance deems consistent with this section. Entities conducting activities in California intended to enhance or promote space flight, including public, private, educational, commercial, nonprofit, or for-profit entities are eligible to apply for the California Space Flight Competitive Grants.

(1) To the extent authorized by the Internal Revenue Code, the alliance shall promote California Space Flight Competitive Grants. If funding is appropriated by the Legislature, the alliance shall, at least annually, issue requests for proposals.

(2) (A) The alliance shall develop a minimum baseline set of requirements and points a grant application must receive in order to be considered for funding. Requirements in addition to the minimum baseline set, which are consistent with the goals and objectives of this program, may be added or deleted from each year's grant solicitation.

(B) Any grant application meeting the minimum baseline set of requirements and points described in subparagraph (A) is automatically eligible for consideration in three subsequent grant year solicitations. The applicant is not required to resubmit a new grant application during this time, but, in future grant solicitations, may provide the review panel with any of the following:

(i) Additional information to enhance its current minimum baseline set of requirements and points.

(ii) Any additional information on the grant application that may be necessary to complete any new or existing requirements as provided for in subparagraph (A).

(C) The program shall award grants based upon a competitive application process, addressing, at a minimum, each project's eligibility, a review of the proposal's scientific and technological aspects, and the ability to fulfill the goals of the program.

(q) It is the intent of the Legislature that the following be considered in developing the minimum baseline set of requirements in subparagraph (A) of paragraph (2) of subdivision (p):

(1) Identification of all sources of funding for the entire project, which should include at least one of the following:

(A) A private sector company or companies.

(B) One or more foundations, industry associations, or nonprofit cooperative associations, or any combination thereof.

(C) Tangible or intangible in-kind support, including staff, facilities, applied technology, or other, as defined further in the grant solicitation.

(D) Federal or local government funding.

(2) No substitution of other project funding by this grant.

(3) A demonstration that a majority of the project will be undertaken in California.

(4) Inclusion of one or more of the following in the project, each of which should have significant operations in the state:

(A) Private sector companies.

(B) Foundations, industry associations, or nonprofit cooperative associations.

(5) An agreement among all project participants as to the intellectual property rights relative to the project.

(6) The potential impact on the state's economy.

(7) The cost effectiveness of the project.

(8) The importance of state funding for the viability of the project.

(9) Cost sharing by other project participants.

(r) In evaluating grant proposals, the alliance shall establish an impartial review panel comprised of technical and scientific experts and government representatives to review grant applications. The panel shall be composed of members from throughout the state who are knowledgeable about activities related to space flight. The panel membership shall be selected so as to afford representation of all parts of the state so far as it is practicable. No more than 30 percent of the panel members shall be government representatives, and all other members shall either be actively involved in industries related to space flight, or technical and scientific experts in activities related to space flight.

(1) The review panel shall review and evaluate California Space Flight Competitive Grant applications based on the grant solicitation

requirements. In accordance with subparagraph (A) of paragraph (2) of subdivision (p), a point system shall be developed to evaluate the grant applications similar to those set forth in Sections 8450 and 15379.3. In making recommendations, the review panel shall apply the criteria and priorities as determined by the grant solicitation. The grant review shall include a determination as to whether the project is eligible, the application is complete, and the proposed use of funding is consistent with the requirements of the grant solicitation. The grant review shall also include a determination that there is no conflict of interest, and any other technical evaluation determined necessary.

(2) The review panel shall compile a final, consolidated list of grant applications ranked by the degree to which each meets the criteria described in the grant solicitation, and shall forward this list to the Secretary of Trade and Commerce for awarding of grant funding. The list may include the panel's recommendation as to the amount of state funding for each grant application, potential multiyear funding of a grant application which must be encumbered in a single fiscal year, or both.

(3) The Secretary of Trade and Commerce shall award grants, based on the review panel's final recommendation list, to applications receiving the highest ranking, unless the secretary finds that changes to the ranking are necessary due to noncompliance with the grant solicitation criteria or because they pose conflicts of interest. The Secretary of Trade and Commerce may overturn a recommendation by the review panel only if the secretary finds clear and convincing evidence to support that action. A report on the funding determination shall be transmitted to the Governor and the chairs of the Senate and Assembly fiscal committees.

(s) The alliance is not eligible to apply for grant funding under this section.

(t) The alliance may establish an advisory committee to provide input, evaluation, program funding recommendations, and other recommendations on the California Space Flight Competitive Grant Program. The committee may also provide recommendations on other space-flight related issues, as directed by the alliance. The committee membership may include representatives from local governments, industry, civic and research organizations, or the general public located in areas with active grant applications. The committee may also include members from throughout the state with an interest in space flight activities.

(u) Nothing in this section shall preclude the state from providing alternative funding allocations for space-related activities.

SEC. 3. Section 15333.4 is added to the Government Code, to read:

15333.4. (a) The Highway to Space Program is hereby established to promote the development of a commercial space transportation system based in California. Any entity conducting

commercial space flight related activities in California may choose to participate in the Highway to Space Program.

(b) To the extent authorized by the Internal Revenue Code, the Western Commercial Space Center, a nonprofit corporation, shall be charged with promotion and coordination of entities choosing to participate in the Highway to Space Program.

(c) The Highway to Space Competitive Grant Program is hereby established to provide funding, upon appropriation by the Legislature, for the development of activities in California related to commercial space infrastructure. For purposes of this section, commercial space infrastructure shall include civil or commercial space transportation systems, new or improved space infrastructure, related space support services, or any additional activities that the center deems consistent with these specifications. Entities conducting activities in California intended to enhance or promote commercial space infrastructure or space flight, including public, private, educational, commercial, nonprofit, or for-profit entities are eligible to apply for the Highway to Space Competitive Grants.

(1) To the extent authorized by the Internal Revenue Code, the center shall promote Highway to Space Competitive Grants. If funding is appropriated by the Legislature, the center shall, at least annually, issue requests for proposals.

(2) (A) The center shall develop a minimum baseline set of requirements and points a grant application must receive to be considered for funding. Requirements in addition to the minimum baseline set, which are consistent with the goals and objectives of this program, may be added or deleted from each year's grant solicitation.

(B) Any grant application meeting the minimum baseline set of requirements and points in paragraph (2) is automatically eligible for consideration in three subsequent grant year solicitations. The applicant is not required to resubmit a new grant application during this time, but may, in future grant solicitations, provide the review panel with any of the following:

(i) Additional information to enhance its current minimum baseline set of requirements and points.

(ii) Any additional information on the grant application that may be necessary to complete any new or existing requirements as provided for in subparagraph (A).

(C) The program shall award grants based upon a competitive application process, addressing, at a minimum, each project's eligibility, a review of the proposal's scientific and technological aspects, and the ability to fulfill the goals of the program.

(d) It is the intent of the Legislature that the following be considered in developing the minimum baseline set of requirements in subparagraph (A) of paragraph (2) of subdivision (c):

(1) Identification of all sources or funding for the entire project, which should include at least one of the following:

(A) A private sector company or companies.

(B) One or more foundations, industry associations, or nonprofit cooperative associations.

(C) Tangible or intangible in-kind support including staff, facilities, applied technology, or other, as defined further in the grant solicitation.

(D) Federal or local government funding.

(2) No substitution of other project funding by this grant.

(3) A demonstration that a majority of the project will be undertaken in California.

(4) Inclusion of one or more of the following in the project, each of which should have significant operations in the state:

(A) Private sector companies.

(B) Foundations, industry associations, or nonprofit cooperative associations.

(5) An agreement among all project participants as to the intellectual property rights relative to the project.

(6) The potential impact on the state's economy.

(7) The cost-effectiveness of the project.

(8) The importance of state funding for the viability of the project.

(9) Cost sharing by other project participants.

(e) In evaluating grant proposals, the center shall establish an impartial review panel comprised of technical and scientific experts and government representatives to review grant applications. The panel shall be composed of members from throughout the state who are knowledgeable of commercial space infrastructure, or related activities. The panel membership shall be selected so as to afford representation of all parts of the state so far as is practicable. No more than 30 percent of the panel members shall be government representatives, and all other members shall either be actively involved in industries related to space flight, or technical and scientific experts in activities related to space flight.

(1) The review panel shall review and evaluate Highway to Space Competitive Grant applications, based on the grant solicitation requirements. In accordance with subparagraph (A) of paragraph (2) of subdivision (c), a point system shall be developed to evaluate the grant applications similar to those set forth in Sections 8450 and 15379.3. In making recommendations, the review panel shall apply the criteria and priorities, as determined by the grant solicitation. The grant review shall include a determination as to whether the project is eligible, the application is complete, and the proposed use of funding is consistent with the requirements of the grant solicitation. The grant review shall include a determination that there is no conflict of interest, and any other technical evaluation determined necessary.

(2) The review panel shall compile a final, consolidated list of grant applications ranked by the degree to which each meets the criteria described in the grant solicitation and shall forward this list to the Secretary of Trade and Commerce for awarding of grant

funding. The list may include the panel's recommendation as to the amount of state funding for each grant application, potential multiyear funding of a grant application which must be encumbered in a single fiscal year, or both.

(3) The Secretary of Trade and Commerce shall award grants, based on the review panel's final recommendation list, to applications receiving the highest ranking, unless the secretary finds that changes to the ranking are necessary due to noncompliance with the grant solicitation criteria or because they pose conflicts of interest. The Secretary of Trade and Commerce may overturn a recommendation by the review panel only if the secretary finds clear and convincing evidence to support that action. A report on the funding determination shall be transmitted to the Governor and the chairs of the Senate and Assembly fiscal committees.

(f) The center is not eligible to apply for grant funding under this section.

(g) The Western Commercial Space Center shall be an official recipient of grants from federal, state, or local government or from private businesses or individuals, for Highway to Space Program activities, including, but not limited to, studies, services, infrastructure improvements and modernization, and defense transition programs, to the extent permitted by law. Any other entity legally eligible may also receive grant funds for these purposes.

(h) The Western Commercial Space Center acting as a corporation may not engage in or hold stock or any controlling interest in for-profit endeavors relating to space flight-related activities.

(i) The center may establish an advisory committee to provide input, evaluation, program funding recommendations, and other recommendations on the Highway to Space Competitive Grant Program. The committee may also provide recommendations on other space-flight related issues, as directed by the center. The committee membership may include representatives from local governments, industry, civic and research organizations, or the general public located in areas with active grant applications. The committee may also include members from throughout the state with an interest in space flight activities.

(j) Nothing in this section shall preclude the state from providing alternative funding allocations for space-related activities.

SEC. 4. The Legislature finds and declares that, because of the unique circumstances applicable to San Luis Obispo and Santa Barbara Counties with regard to space flight-related activities, 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.

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## CHAPTER 939

An act to amend Sections 24413 and 24415 of, to add Sections 22951.5, 22954.5, 24416, and 24417 to, and to repeal Section 24411.5 of, the Education Code, relating to retirement, and making an appropriation therefor.

[Approved by Governor October 12, 1997. Filed with Secretary of State October 12, 1997.]

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

SECTION 1. This act may be known and cited as the Mrs. Ruth Q. de Prida Pension Protection Act.

SEC. 2. Section 22951.5 is added to the Education Code, to read:

22951.5. In addition to any other contributions required by this part, if the board determines that the Supplemental Benefit Maintenance Account will not have sufficient funds to make the maximum payment pursuant to Section 24417, the board may increase the employer contribution rate as provided in Section 24416.

SEC. 3. Section 22954.5 is added to the Education Code to read:

22954.5. For the 1998–99 fiscal year, the contributions required by Section 22954 shall be reduced by the total value of the state’s interest in the school lands from the sale of the Elk Hills Naval Petroleum Reserve. That sale is expected in February 1998.

SEC. 4. Section 24411.5 of the Education Code is repealed.

SEC. 5. Section 24413 of the Education Code is amended to read:

24413. Notwithstanding Section 24412, revenues from school lands or lieu lands related to the claim of the State of California to the school lands within the area referred to as the Elk Hills Naval Petroleum Reserve, shall be deposited in the Supplemental Benefit Maintenance Account.

SEC. 6. Section 24415 of the Education Code is amended to read:

24415. (a) The proceeds of the Supplemental Benefit Maintenance Account shall, except as otherwise provided by Section 24414, be distributed annually in quarterly supplemental payments commencing on September 1, 1990, to retired members, disabled members, and beneficiaries. The amount available for distribution in any fiscal year shall not exceed the amount necessary to restore purchasing power up to 75 percent of the purchasing power of the initial monthly allowance after the application of all allowance increases authorized by this part, including those specified in Section 24412.

(b) The net revenues to be distributed shall be allocated among those retired members, disabled members, and beneficiaries whose allowances, after sequentially applying the annual improvement factor as defined in Sections 22140 and 22141, and the annual supplemental payment as defined in Section 24412, have the lowest

purchasing power percentage. The purchasing power calculation for each individual shall be based on the change in the All Urban California Consumer Price Index between June of the calendar year of retirement and June of the fiscal year preceding the fiscal year of distribution. In any year in which the purchasing power of the allowances of all retired members, disabled members, and beneficiaries equals not less than 75 percent and additional funds remain from the allocation authorized by this section, those funds shall remain in the Supplemental Benefit Maintenance Account for allocation in future years.

(c) The allowance increase shall not be applicable to annuities payable from the accumulated annuity deposit contributions or the accumulated tax-sheltered annuity contributions.

(d) The benefits provided by subdivision (b) are not cumulative, not part of the base allowance, and will be payable only to the extent that funds are available from the Supplemental Benefit Maintenance Account. The board shall inform each recipient of the contents of this subdivision.

(e) The adjustments authorized by this section are not vested and shall not be included in the base allowance for purposes of calculating the annual improvement defined by Sections 22140 and 22141.

SEC. 7. Section 24416 is added to the Education Code, to read:

24416. (a) Beginning in the 1997–98 fiscal year, if the board determines by June 30 of the then current fiscal year that the Supplemental Benefit Maintenance Account will not have sufficient funds to provide purchasing power of up to 75 percent for the subsequent fiscal year, the board, for that year, may do either, or a combination of the following:

(1) Increase the employer contribution rate commencing in the next fiscal year by an amount that would provide sufficient funds for no more than the estimated difference between the funds in the Supplemental Benefit Maintenance Account and the amount needed to pay the benefit level specified by the board, provided the benefit level is no more than 75 percent. Notwithstanding any other provision of this part, the increase in the employer contribution rate shall only become operative if the increase is approved or authorized in the Budget Act.

(2) Reduce the supplemental benefit payment for the subsequent fiscal year to the amount which can be funded by the available funds in the Supplemental Benefit Maintenance Account.

(b) If the board finds that there is no unfunded obligation, as determined by the board's professional consulting actuary and affirmed by the Director of Finance, then in addition to the authority pursuant to subdivision (a), the board may transfer to an auxiliary Supplemental Benefit Maintenance Account, from any funds that are in excess of the amount needed to fund fully the benefits for which the Teachers' Retirement Fund is liable, an amount that would provide sufficient funds for no more than the estimated difference

between the funds in the Supplemental Benefit Maintenance Account and the amount needed to pay the benefit level specified by the board, provided the benefit level is no more than 75 percent.

(c) If the board increases the employer contribution rate pursuant to paragraph (1) of subdivision (a), the increase between the current fiscal year contribution rate and the contribution rate in the next fiscal year, shall not exceed one-quarter of 1 percent of the creditable compensation upon which contributions are based.

SEC. 8. Section 24417 is added to the Education Code, to read:

24417. (a) The proceeds of an auxiliary Supplemental Benefit Maintenance Account shall be distributed annually in quarterly supplemental payments, commencing when funds in the Supplemental Benefit Maintenance Account are insufficient to support 75 percent, to retired members, disabled members, and beneficiaries. The amount available for distribution in any fiscal year shall not exceed the amount necessary to restore purchasing power up to 75 percent of the purchasing power of the initial monthly allowance after the application of all allowance increases authorized by this part, including those specified in Section 24412 and Section 24415.

(b) The net revenues to be distributed shall be allocated among those retired members, disabled members, and beneficiaries whose allowances, after sequentially applying the annual improvement factor as defined in Sections 22140 and 22141, and the annual supplemental payment as defined in Section 24412 and Section 24415, have the lowest purchasing power percentage. The purchasing power calculation for each individual shall be based on the change in the All Urban California Consumer Price Index between June of the calendar year of benefit effective date and June of the fiscal year preceding the fiscal year of distribution.

(c) The allowance increase shall not be applicable to annuities payable from the accumulated annuity deposit contributions or the accumulated tax-sheltered annuity contributions.

(d) The benefits provided by subdivision (b) are not cumulative, nor part of the base allowance, and will be payable only to the extent that funds are available from the Supplemental Benefit Maintenance Account and the auxiliary Supplemental Benefit Maintenance Account. The board shall inform each recipient of the contents of this subdivision.

(e) The distributions authorized by this section are not vested and shall not be included in the base allowance for purposes of calculating the annual improvement defined by Section 22140 and 22141.

SEC. 9. It is the intent of the Legislature that no General Fund revenue, in excess of the funds specified in Section 22954, be transferred to the Supplemental Benefit Maintenance Account for the purpose of providing supplemental benefit payments.

It is further the intent of the Legislature that all payments from the Supplemental Benefit Maintenance Account include a notification

that the payments from the account are not vested and may be reduced or terminated in the next year. The notification shall also indicate that no assumption should be made that payments from this account will continue.

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## CHAPTER 940

An act to amend Section 15031 of the Education Code, to amend Section 54902.5 of the Government Code, to amend Section 33674 of the Health and Safety Code, and to amend Sections 51, 69.5, 75.10, 408, 434.5, 670, 673, 1603, 1605, and 38904 of, and to amend, repeal, and add Section 619 of, the Revenue and Taxation Code, relating to taxation.

[Approved by Governor October 12, 1997. Filed with Secretary of State October 12, 1997.]

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

SECTION 1. 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 set forth 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 Communities Facilities Act of 1982

(Ch. 2.5 (commencing with Sec. 53311), Pt. 1, Div. 2, Title 5, Gov. C.). 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).

(d) The governing body of a school district or community college district that proceeds under this chapter shall comply with the filing requirements established by Section 54902 of the Government Code. Any plat or map that is filed pursuant to this subdivision shall specifically identify any property, located within the school district or community college district, that is not located within the improvement district established by the school district or community college district pursuant to this chapter.

SEC. 2. Section 54902.5 of the Government Code is amended to read:

54902.5. (a) Notwithstanding Section 6103, the State Board of Equalization shall establish a schedule of fees for filing and processing the statements and maps or plats which are required to be filed with the board pursuant to Section 54902.

(1) The schedule shall not include any fee which exceeds the reasonably anticipated cost to the board of performing the work to which the fee relates, or an amount equal to 25 percent of the anticipated total tax revenue that will be collected by the city or district during the first full fiscal year, beginning on July 1, that the boundary changes are effective, as determined by the county auditor, whichever amount is less.

(2) For purposes of this subdivision, the term "anticipated total tax revenue" means the tax revenues that will be allocated to the city or district from all property located within the boundaries of the city or district, including the area affected by the boundary change.

(b) The city, district, or executive officer of a local agency formation commission, forwarding the statement to the tax or assessment levying authority for filing pursuant to Section 54900, shall accompany the statement with the necessary fee for transmittal to the board. However, with respect to a newly created city or district, no fee shall be required until the time that the city or district receives its first revenues.

SEC. 3. Section 33674 of the Health and Safety Code is amended to read:

33674. The portion of taxes mentioned in subdivision (b) of Section 33670 shall not be allocable and payable for the first time until the tax year which begins after the December 1st next following the transmittal of the documents as required in Section 33375 or Section 33457.

SEC. 4. Section 51 of the Revenue and Taxation Code is amended to read:

51. (a) For purposes of subdivision (b) of Section 2 of Article XIII A of the California Constitution, for each lien date after the lien date in which the base year value is determined pursuant to Section 110.1, the taxable value of real property shall, except as otherwise provided in subdivision (b) or (c), be the lesser of:

(1) Its base year value, compounded annually since the base year by an inflation factor, which shall be determined as follows:

(A) For any assessment year commencing prior to January 1, 1985, the inflation factor shall be the percentage change in the cost of living, as defined in Section 2212.

(B) For any assessment year commencing after January 1, 1985, and prior to January 1, 1998, the inflation factor shall be the percentage change, rounded to the nearest one-thousandth of 1 percent, from December of the prior fiscal year to December of the current fiscal year in the California Consumer Price Index for all items, as determined by the California Department of Industrial Relations.

(C) For any assessment year commencing on or after January 1, 1998, the inflation factor shall be the percentage change, rounded to the nearest one-thousandth of 1 percent, from October of the prior fiscal year to October of the current fiscal year in the California Consumer Price Index for all items, as determined by the California Department of Industrial Relations.

(D) In no event shall the percentage increase for any assessment year determined pursuant to subparagraph (A), (B), or (C) exceed 2 percent of the prior year's value.

(2) Its full cash value, as defined in Section 110, as of the lien date, taking into account reductions in value due to damage, destruction, depreciation, obsolescence, removal of property, or other factors causing a decline in value.

(b) If the real property was damaged or destroyed by disaster, misfortune, or calamity and the board of supervisors of the county in which the real property is located has not adopted an ordinance pursuant to Section 170, or any portion of the real property has been removed by voluntary action by the taxpayer, the taxable value of the property shall be the sum of the following:

(1) The lesser of its base year value of land determined under paragraph (1) of subdivision (a) or full cash value of land determined pursuant to paragraph (2) of subdivision (a).

(2) The lesser of its base year value of improvements determined pursuant to paragraph (1) of subdivision (a) or the full cash value of improvements determined pursuant to paragraph (2) of subdivision (a).

The sum determined under this subdivision shall then become the base year value of the real property until that property is restored,

repaired, or reconstructed or other provisions of law require establishment of a new base year value.

(c) If the real property was damaged or destroyed by disaster, misfortune or calamity and the board of supervisors in the county in which the real property is located has adopted an ordinance pursuant to Section 170, the taxable value of the real property shall be its assessed value as computed pursuant to Section 170.

(d) For purposes of this section, "real property" means that appraisal unit that persons in the marketplace commonly buy and sell as a unit, or that is normally valued separately.

(e) Nothing in this section shall be construed to require the assessor to make an annual reappraisal of all assessable property. However, for each lien date after the first lien date for which the taxable value of property is reduced pursuant to paragraph (2) of subdivision (a), the value of that property shall be annually reappraised at its full cash value as defined in Section 110 until that value exceeds the value determined pursuant to paragraph (1) of subdivision (a). In no event shall the assessor condition the implementation of the preceding sentence in any year upon the filing of an assessment appeal.

SEC. 5. Section 69.5 of the Revenue and Taxation Code 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 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 which, 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 which is 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 which is 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 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 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) 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 which 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 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, 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 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 either of the following conditions are 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 which 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 which 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 which 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 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), 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) This section shall remain operative only until January 1, 1999, and on that date is repealed.

SEC. 6. Section 69.5 of the Revenue and Taxation Code is amended 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), 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) This section, except as provided in paragraph (2) or (3), 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 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.

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

SEC. 7. Section 75.10 of the Revenue and Taxation Code is amended to read:

75.10. (a) Commencing with the 1983–84 assessment year and each assessment year thereafter, whenever a change in ownership occurs or new construction resulting from actual physical new construction on the site is completed, the assessor shall appraise the property changing ownership or the new construction at its full cash value (except as provided in Section 68 and subdivision (b) of this section) on the date the change in ownership occurs or the new construction is completed. The value so determined shall be the new base year value of the property or the new construction.

(b) For purposes of this chapter, "actual physical new construction" includes the removal of a structure from land. The new

base year value of the remaining property (after the removal of the structure) shall be determined in the same manner as provided in subdivision (b) of Section 51.

(c) For purposes of this section, "actual physical new construction" includes the discovery of previously unknown reserves of oil or gas.

SEC. 8. Section 408 of the Revenue and Taxation Code is amended to read:

408. (a) Except as otherwise provided in subdivisions (b), (c), (d), and (e) any information and records in the assessor's office that are not required by law to be kept or prepared by the assessor, and homeowners' exemption claims, are not public documents and shall not be open to public inspection. Property receiving the homeowners' exemption shall be clearly identified on the assessment roll. The assessor shall maintain records which shall be open to public inspection to identify those claimants who have been granted the homeowners' exemption.

(b) The assessor may provide any appraisal data in his or her possession to the assessor of any county.

The assessor shall disclose information, furnish abstracts, or permit access to all records in his or her office to law enforcement agencies, the county grand jury, the board of supervisors or their duly authorized agents, employees or representatives when conducting an investigation of the assessor's office pursuant to Section 25303 of the Government Code, the Controller, employees of the Controller for property tax postponement purposes, probate referees, employees of the Franchise Tax Board for tax administration purposes only, staff appraisers of the Department of Financial Institutions, the Department of Transportation, the Department of General Services, the State Board of Equalization, the State Department of Social Services, the Department of Water Resources, and other duly authorized legislative or administrative bodies of the state pursuant to their authorization to examine the records. Whenever the assessor discloses information, furnishes abstracts, or permits access to records in his or her office to staff appraisers of the Department of Financial Institutions, the Department of Transportation, the Department of General Services, or the Department of Water Resources pursuant to this section, the department shall reimburse the assessor for any costs incurred as a result thereof.

(c) Upon the request of the tax collector, the assessor shall disclose and provide to the tax collector information used in the preparation of that portion of the unsecured roll for which the taxes thereon are delinquent. The tax collector shall certify to the assessor that he or she needs the information requested for the enforcement of the tax lien in collecting those delinquent taxes. Information requested by the tax collector may include social security numbers, and the assessor shall recover from the tax collector his or her actual and reasonable costs

for providing the information. The tax collector shall add the costs described in the preceding sentence to the assessee’s delinquent tax lien and collect those costs subject to subdivision (e) of Section 2922.

(d) The assessor shall, upon the request of an assessee or his or her designated representative, permit the assessee or representative to inspect or copy any market data in the assessor’s possession. For purposes of this subdivision, “market data” means any information in the assessor’s possession, whether or not required to be prepared or kept by him or her, relating to the sale of any property comparable to the property of the assessee, if the assessor bases his or her assessment of the assessee’s property, in whole or in part, on that comparable sale or sales. The assessor shall provide the names of the seller and buyer of each property on which the comparison is based, the location of that property, the date of the sale, and the consideration paid for the property, whether paid in money or otherwise. However, for purposes of providing market data, the assessor shall not display any document relating to the business affairs or property of another.

(e) (1) With respect to information, documents, and records, other than market data as defined in subdivision (d), the assessor shall, upon request of an assessee of property, or his or her designated representative, permit the assessee or representative to inspect or copy all information, documents, and records, including auditors’ narrations and workpapers, whether or not required to be kept or prepared by the assessor, relating to the appraisal and the assessment of the assessee’s property, and any penalties and interest thereon.

(2) After enrolling an assessment, the assessor shall respond to a written request for information supporting the assessment, including, but not limited to, any appraisal and other data requested by the assessee.

(3) Except as provided in Section 408.1, an assessee, or his or her designated representative, shall not be permitted to inspect or copy information and records that also relate to the property or business affairs of another, unless that disclosure is ordered by a competent court in a proceeding initiated by a taxpayer seeking to challenge the legality of the assessment of his or her property.

(f) (1) Permission for the inspection or copying requested pursuant to subdivision (d) or (e) shall be granted as soon as reasonably possible to the assessee or his or her designated representative.

(2) If the assessee, or his or her designated representative, requests the assessor to make copies of any of the requested records, the assessee shall reimburse the assessor for the reasonable costs incurred in reproducing and providing the copies.

(3) If the assessor fails to permit the inspection or copying of materials or information as requested pursuant to subdivision (d) or (e) and the assessor introduces any requested materials or information at any assessment appeals board hearing, the assessee or

his or her representative may request and shall be granted a continuance for a reasonable period of time. The continuance shall extend the two-year period specified in subdivision (c) of Section 1604 for a period of time equal to the period of continuance.

SEC. 9. Section 434.5 of the Revenue and Taxation Code is amended to read:

434.5. (a) On March 1, 1984, for the Redwood Region and Pine-Mixed Conifer Region, and on January 1, 1985, for the Whitewood Subzone of the Redwood Region, and January 1 of each year thereafter, the value per acre of timberland zoned under the provisions of Section 51110 or Section 51113 of the Government Code shall be determined from the following schedule:

| Redwood Region | |
|---|---|
| Site I | $180 |
| Site II | $150 |
| Site III | $130 |
| Site IV | $114 |
| Site V (and inoperable) | $ 35 |

| Pine–Mixed Conifer Region | |
|---|---|
| Site I | $ 98 |
| Site II | $ 69 |
| Site III | $ 56 |
| Site IV | $ 39 |
| Site V (and inoperable) | $ 23 |

| Whitewood Subzone of the Redwood Region | |
|---|---|
| Site I | $130 |
| Site II | $ 95 |
| Site III | $ 80 |
| Site IV | $ 60 |
| Site V (and inoperable) | $ 30 |

For purposes of this section:

(1) “Redwood Region” means all those timberlands located in Del Norte, Humboldt, Sonoma, Marin, Monterey, Santa Cruz, and San Mateo Counties and that portion of Mendocino County which lies west and south of the main Eel River.

(2) “Whitewood Subzone of the Redwood Region” means that timberland located within the Redwood Region within which the assessor has determined that redwood did not exist as a species in the composition of the original timber stand, or which has not been replanted with redwood for commercial purposes.

(3) “Pine-Mixed Conifer Region” means all other timberlands outside the Redwood Region.

When the assessor, pursuant to Section 434, designates a timberland parcel or portion thereof as inoperable, that timberland parcel or portion thereof shall be valued as if it is Site V.

(b) In 1985, the board shall determine the current value of timberland by the following process:

(1) For each fiscal year between July 1, 1979, and June 30, 1984, divide the total value of all timber harvested within the state, less miscellaneous forest products not reported by board foot volume, by the total volume of timber harvested, as reported pursuant to Section 38402. Average the five fiscal year values to obtain the five-year periodic immediate harvest value.

(2) For each fiscal year between July 1, 1978, and June 30, 1983, follow the same procedure as described in paragraph (1).

(3) Divide the value obtained by paragraph (1) by the value obtained by paragraph (2) to obtain the percentage change, rounded to the nearest one-tenth of 1 percent.

(4) Increase or decrease to the nearest dollar the full market values contained in subdivision (a) by one-half of the percentage change determined by paragraph (3).

(c) Beginning January 1, 1986, and each year thereafter, the board shall determine the current value of timberland using the same procedure as described in subdivision (b), except that this adjustment shall be made to the prior year’s adjusted values, and the five-year periodic immediate harvest values shall be successively one year more recent.

(d) The board shall certify the values determined pursuant to this section to the county assessors by November 30 of each year.

(e) The Legislature finds and declares that the foregoing values are consistent with the taxation of timberland used primarily for growing timber and that these values are consistent with the intent of subdivision (j) of Section 3 of Article XIII of the Constitution.

SEC. 10. Section 619 of the Revenue and Taxation Code is amended to read:

619. (a) Except as provided in subdivision (f), the assessor shall, upon or prior to completion of the local roll, either:

(1) Inform each assessee of real property on the local secured roll whose property’s full value has increased of the assessed value of that property as it shall appear on the completed local roll; or

(2) Inform each assessee of real property on the local secured roll, or each assessee on the local secured roll and each assessee on the unsecured roll, of the assessed value of his or her real property or of both his or her real and his or her personal property as it shall appear on the completed local roll.

(b) The information given by the assessor to the assessee pursuant to paragraph (1) or (2) of subdivision (a) shall include a notification of hearings by the county board of equalization, which shall include

the period during which assessment protests will be accepted and the place where they may be filed. The information shall also include an explanation of the stipulation procedure set forth in Section 1607 and the manner in which the assessee may request use of this procedure.

(c) The information shall also include the full value of the property.

(d) The information shall be furnished by the assessor to the assessee by regular United States mail directed to him or her at his or her latest address known to the assessor.

(e) Neither the failure of the assessee to receive the information nor the failure of the assessor to so inform the assessee shall in any way affect the validity of any assessment or the validity of any taxes levied pursuant thereto.

(f) This section shall not apply to annual increases in the valuation of property which reflect the inflation rate, not to exceed 2 percent, pursuant to the authority of subdivision (b) of Section 2 of Article XIII A of the California Constitution, for purposes of property tax limitation determinations.

(g) This section does not apply to increases in assessed value caused solely by changes in the assessment ratio provided for in Section 401.

(h) This section shall remain in effect only until January 1, 1999, and as of that date is repealed.

SEC. 10.5. Section 619 is added to the Revenue and Taxation Code, to read:

619. (a) Except as provided in subdivision (f), the assessor shall, upon or prior to completion of the local roll, do either of the following:

(1) Inform each assessee of real property on the local secured roll whose property's full value has increased over its full value for the prior year of the assessed value of that property as it shall appear on the completed local roll.

(2) Inform each assessee of real property on the local secured roll, or each assessee on the local secured roll and each assessee on the unsecured roll, of the assessed value of his or her real property or of both his or her real and his or her personal property as it shall appear on the completed local roll.

(b) The information given by the assessor to the assessee pursuant to paragraph (1) or (2) of subdivision (a) shall include a notification of hearings by the county board of equalization, which shall include the period during which assessment protests will be accepted and the place where they may be filed. The information shall also include an explanation of the stipulation procedure set forth in Section 1607 and the manner in which the assessee may request use of this procedure.

(c) In the case of an increase in a property's full value that is determined pursuant to paragraph (1) of subdivision (a) of Section 51 over the property's full value determined for the prior year in accordance with paragraph (2) of that same subdivision, the information shall also include the full cash value base of the property,

compounded annually from the base year to the current year by the appropriate inflation factors.

(d) The information shall be furnished by the assessor to the assessee by regular United States mail directed to him or her at his or her latest address known to the assessor.

(e) Neither the failure of the assessee to receive the information nor the failure of the assessor to so inform the assessee shall in any way affect the validity of any assessment or the validity of any taxes levied pursuant thereto.

(f) This section shall not apply to annual increases in the valuation of property which reflect the inflation rate, not to exceed 2 percent, pursuant to the authority of subdivision (b) of Section 2 of Article XIII A of the California Constitution, for purposes of property tax limitation determinations.

(g) This section does not apply to increases in assessed value caused solely by changes in the assessment ratio provided for in Section 401.

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

SEC. 11. Section 670 of the Revenue and Taxation Code is amended to read:

670. (a) No person shall perform the duties or exercise the authority of an appraiser for property tax purposes as an employee of the state, any county or city and county, unless he or she is the holder of a valid appraiser's or advanced appraiser's certificate issued by the State Board of Equalization.

(b) The board shall provide for the examination of applicants for these certificates and may contract with the State Personnel Board to give the examinations. Examinations shall be prepared by the board with the advice and assistance of a committee of five assessors selected by the State Association of County Assessors for this purpose. No certificate shall be issued to any person who has not attained a passing grade in the examination and demonstrated to the board that he or she is competent to perform the work of an appraiser as that competency is defined in regulations duly adopted by the board. However, any applicant for a certificate who is denied the same shall have a right to a review of that denial in accordance with the State Administrative Procedure Act contained in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(c) Passage of a civil service or merit system examination for appraiser given by the state, or any county or city and county, shall suffice to meet the requirements of this section. The scope of the examination shall be approved by the State Board of Equalization.

(d) No employee of the state, or any county or city and county shall perform the duties or exercise the authority of an auditor or an auditor-appraiser under Section 469 or Section 15624 of the Government Code, unless he or she holds a degree with a specialization in accounting from a recognized institution of higher

education, or is a licensed accountant in the State of California, or has passed the state, or a county, or city and county, or city civil service or merit system examination regularly given for the position of accountant or auditor by the testing body, or holds the office of assessor.

(e) Except for persons holding the office of assessor, this section does not apply to elected officials.

(f) No charge shall be made to counties or to applicants for examinations and certifications under this section or for training conducted by the board under Section 671.

SEC. 12. Section 673 of the Revenue and Taxation Code is amended to read:

673. The State Board of Equalization may issue a temporary certificate to a person who is newly employed by the state, any county, city and county, or appraisal commission in order to afford the person the opportunity to apply for and take an examination the successful passage of which would qualify the person for an appraiser's certificate. A temporary certificate shall not be issued to exceed one year's duration and shall be issued only to a person who has demonstrated eligibility to take a civil service examination pursuant to subdivision (c) of Section 670, or who is found by the board to possess qualifications by reason of education and experience so that he or she may be reasonably expected to be competent to perform the work of an appraiser, or who has been duly elected or appointed to the office of assessor. A temporary certificate shall not be renewed.

SEC. 13. Section 1603 of the Revenue and Taxation Code is amended to read:

1603. (a) A reduction in an assessment on the local roll shall not be made unless the party affected or his or her agent makes and files with the county board a verified, written application showing the facts claimed to require the reduction and the applicant's opinion of the full value of the property. The form for the application shall be prescribed by the State Board of Equalization.

(b) (1) The application shall be filed within the time period beginning July 2 and continuing through and including September 15. An application that is mailed and postmarked September 15 or earlier within that period shall be deemed to have been filed within the time period beginning July 2 and continuing through and including September 15.

(2) If September 15 falls on Saturday, Sunday, or a legal holiday, an application that is mailed and postmarked on the next business day shall be deemed to have been filed within "the time period beginning July 2 and continuing through and including September 15." If on the dates specified in this paragraph, the county's offices are closed for business prior to 5 p.m. or for that entire day, that day shall be considered a legal holiday for purposes of this section.

(3) If the taxpayer does not receive the notice of assessment described in Section 619 at least 15 calendar days prior to the deadline to file the application described in this subdivision, the party affected, or his or her agent, may file an application within 60 days of receipt of the notice of assessment or within 60 days of the mailing of the tax bill, whichever is earlier, along with an affidavit declaring under penalty of perjury that the notice was not timely received.

(c) However, the application may be filed within 12 months following the month in which the assessee is notified of the assessment, if the party affected or his or her agent and the assessor stipulate that there is an error in the assessment as the result of the exercise of the assessor's judgment in determining the full cash value of the property and a written stipulation as to the full cash value and assessed value is filed in accordance with Section 1607.

(d) In the form provided for making application pursuant to this section, there shall be a notice that written findings of facts of the local equalization hearing will be available upon written request at the requester's expense and, if not so requested, the right to the written findings is waived. The form shall provide appropriate space for the applicant to request written findings of facts as provided by Section 1611.5.

SEC. 14. Section 1605 of the Revenue and Taxation Code is amended to read:

1605. (a) An assessment made outside of the regular assessment period is not effective for any purpose, including its review, equalization and adjustment by the county board, until the assessee has been notified thereof personally or by United States mail at the assessee's address as contained in the official records of the county assessor. Receipt by the assessee of a tax bill based on that assessment shall suffice as the notice.

(b) Upon application for reduction pursuant to subdivision (a) of Section 1603, the assessment shall be subject to review, equalization and adjustment by the county board. The application shall be filed with the clerk no later than 60 days after the date on which the assessee was notified. For counties of the first class, the application shall be filed within 60 days of the date of the mailing of the tax bill. However, an application for reduction in a supplemental assessment may be filed within 12 months following the month in which the assessee is notified of that assessment, if the party affected or his or her agent and the assessor stipulate that there is an error in the assessment as the result of the exercise of the assessor's judgment in determining the full cash value of the property and a written stipulation as to the full cash value and assessed value of the property is filed in accordance with Section 1607.

(c) The board of supervisors of any county may by resolution require that the application for reduction pursuant to subdivision (a) of Section 1603 be filed with the clerk no later than 60 days after the date of the mailing of the tax bill.

(d) In counties where assessment appeals boards have not been created and are not in existence, at any regular meeting, the board of supervisors, on the request of the assessor or any taxpayer, shall sit as the county board to equalize any assessments made by the assessor outside the regular assessment period for those assessments. Notwithstanding any other provision of law to the contrary, in any county in which assessment appeals boards have been created and are in existence, the time for equalization of assessments made outside the regular assessment period for those assessments, including assessments made pursuant to Sections 501, 503, 504, and 531 shall be prescribed by rules adopted by the board of supervisors.

(e) If an audit of the books and records of any profession, trade, or business pursuant to Section 469 discloses property subject to an escaped assessment for any year, then the original assessment of all property of the assessee at the location of the profession, trade, or business for that year shall be subject to review, equalization and adjustment by the county board of equalization or assessment appeals board pursuant to this chapter, except in those instances when that property had previously been equalized for the year in question by the county board of equalization or assessment appeals board. The application shall be filed with the clerk no later than 60 days after the date on which the assessee was notified. Receipt by the assessee of a tax bill based upon that assessment shall suffice as that notice.

(f) For purposes of subdivision (a), "regular assessment period" means January 1 to and including July 1 of the calendar year in which the assessment, other than escape assessments, should have been enrolled if it had been timely made.

SEC. 15. Section 38904 of the Revenue and Taxation Code is amended to read:

38904. The money in the Timber Tax Fund is appropriated as follows:

(a) To reimburse the General Fund for funds advanced for costs incurred by the board in administration of this part as follows:

(1) Four hundred sixty-seven thousand nine hundred thirty dollars ($467,930) for fiscal years 1975–76 and 1976–77.

(2) Amounts identified and approved in subsequent fiscal years as approved in the Budget Bill. One-half of this amount shall be reimbursed to the General Fund between November 1 and November 10, and the remaining one-half between May 1 and May 10. In the event that not all funds approved in the Budget Bill are actually expended by the board, then in the succeeding fiscal year, the amount to be reimbursed to the General Fund between November 1 and November 10 shall be reduced by an amount equal to the unexpended appropriation of the preceding fiscal year.

(b) To reimburse the General Fund for funds advanced for costs incurred by the State Forester in administration of Section 4582.8 of the Public Resources Code as follows:

(1) Thirteen thousand five hundred dollars ($13,500) for fiscal years 1975–76 and 1976–77.

(2) Amounts identified and approved in subsequent fiscal years as approved in the Budget Bill.

(c) To the Controller to allocate pursuant to Sections 38905 and 38905.1.

(d) To pay refunds authorized by this part of taxes imposed pursuant to Section 38115 and interest, penalties, and other amounts paid or collected pursuant to this part and deposited in the Timber Tax Fund.

SEC. 16. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that Section 10 of 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.

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## CHAPTER 941

An act to amend Sections 63.1, 69.5, 255, 255.3, 273, 273.5, 275, 275.5, 276, 430.5, and 1603 of, and to add Sections 401.13 and 5145.5 to, the Revenue and Taxation Code, relating to taxation.

[Approved by Governor October 12, 1997. Filed with
Secretary of State October 12, 1997.]

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

SECTION 1. Section 63.1 of the Revenue and Taxation Code is amended to read:

63.1. (a) Notwithstanding any other provision of this chapter, a change in ownership shall not include the following purchases or transfers for which a claim is filed pursuant to this section:

(1) The purchase or transfer of real property which is the principal residence of an eligible transferor in the case of a purchase or transfer between parents and their children.

(2) The purchase or transfer of the first one million dollars ($1,000,000) of full cash value of all other real property of an eligible transferor in the case of a purchase or transfer between parents and their children.

(3) (A) Subject to subparagraph (B), the purchase or transfer of real property described in paragraphs (1) and (2) of subdivision (a) occurring on or after March 27, 1996, between grandparents and their grandchild or grandchildren, 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 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) of subdivision (a). 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 (2) of subdivision (a) 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 paragraph (2) of subdivision (a), the one million dollar ($1,000,000) full cash value limit specified in paragraph (2) of subdivision (a).

(b) (1) For purposes of paragraph (1) of subdivision (a), "principal residence" means a dwelling for which a homeowners' exemption or a disabled veterans' residence exemption has been granted in the name of the eligible transferor. "Principal residence" includes only that portion of the land underlying the principal residence that consists of an area of reasonable size that is used as a site for the residence.

(2) For purposes of paragraph (2) of subdivision (a), the one million dollar ($1,000,000) exclusion shall apply separately to each eligible transferor with respect to all purchases by and transfers to eligible transferees on and after November 6, 1986, of real property, other than the principal residence, of that eligible transferor. The exclusion shall not apply to any property in which the eligible transferor's interest was received through a transfer, or transfers, excluded from change in ownership by the provisions of either subdivision (f) of Section 62 or subdivision (b) of Section 65, unless the transferor qualifies as an original transferor under subdivision (b) of Section 65. In the case of any purchase or transfer subject to this paragraph involving two or more eligible transferors, the transferors may elect to combine their separate one million dollar ($1,000,000) exclusions and, upon making that election, the combined amount of their separate exclusions shall apply to any property jointly sold or transferred by the electing transferors, provided that in no case shall the amount of full cash value of real property of any one eligible transferor excluded under this election exceed the amount of the transferor's separate unused exclusion on the date of the joint sale or transfer.

(c) As used in this section:

(1) “Purchase or transfer between parents and their children” means either a transfer from a parent or parents to a child or children of the parent or parents or a transfer from a child or children to a parent or parents of the child or children. For purposes of this section, the date of any transfer between parents and their children under a will or intestate succession shall be the date of the decedent’s death, if the decedent died on or after November 6, 1986.

(2) “Purchase or transfer of real property between grandparents and their grandchild or grandchildren” means a purchase or transfer on or after March 27, 1996, from a grandparent or grandparents to a grandchild or grandchildren 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 transfer. For purposes of this section, the date of any transfer between grandparents and their grandchildren under a will or by intestate succession shall be the date of the decedent’s death.

(3) “Children” means any of the following:

(A) Any child born of the parent or parents, except a child, as defined in subparagraph (D), who has been adopted by another person or persons.

(B) Any stepchild of the parent or parents and the spouse of that stepchild while the relationship of stepparent and stepchild exists. For purposes of this paragraph, the relationship of stepparent and stepchild shall be deemed to exist until the marriage on which the relationship is based is terminated by divorce, or, if the relationship is terminated by death, until the remarriage of the surviving stepparent.

(C) Any son-in-law or daughter-in-law of the parent or parents. For the purposes of this paragraph, the relationship of parent and son-in-law or daughter-in-law shall be deemed to exist until the marriage on which the relationship is based is terminated by divorce or, if the relationship is terminated by death, until the remarriage of the surviving son-in-law or daughter-in-law.

(D) Any child adopted by the parent or parents pursuant to statute, other than an individual adopted after reaching the age of 18 years.

(4) “Grandchild” or “grandchildren” means any child or children of the child or children of the grandparent or grandparents.

(5) “Full cash value” means full cash value, as defined in Section 2 of Article XIII A of the California Constitution and Section 110.1, with any adjustments authorized by those sections, and the full value of any new construction in progress, determined as of the date immediately prior to the date of a purchase by or transfer to an eligible transferee of real property subject to this section.

(6) “Eligible transferor” means a grandparent, parent, or child of an eligible transferee.

(7) “Eligible transferee” means a parent, child, or grandchild of an eligible transferor.

(8) “Real property” means real property as defined in Section 104. Real property does not include any interest in a legal entity.

(9) “Transfer” includes, and is not limited to, any transfer of the present beneficial ownership of property from an eligible transferor to an eligible transferee through the medium of an inter vivos or testamentary trust.

(10) “Social security number” also includes a taxpayer identification number issued by the Internal Revenue Service in the case in which the taxpayer is a foreign national who cannot obtain a social security number.

(d) (1) The exclusions provided for in subdivision (a) shall not be allowed unless the eligible transferee, the transferee’s legal representative, or the executor or administrator of the transferee’s estate files a claim with the assessor for the exclusion sought and furnishes to the assessor each of the following:

(A) A written certification by the transferee, the transferee’s legal representative, or the executor or administrator of the transferee’s estate made under penalty of perjury that the transferee is a grandparent, parent, child, or grandchild of the transferor. In the case of a grandparent-grandchild transfer, the written certification shall also include a certification that all the parents of the grandchild or grandchildren who qualify as children of the grandparents were deceased as of the date of the purchase or transfer and that the grandchild or grandchildren did or did not receive a principal residence excludable under paragraph (1) of subdivision (a) from the deceased parents, and that the grandchild or grandchildren did or did not receive real property other than a principal residence excludable under paragraph (2) of subdivision (a) from the deceased parents. The claimant shall provide legal substantiation of any matter certified pursuant to this subparagraph at the request of the county assessor.

(B) A copy of a written certification by the transferor, the transferor’s legal representative, or the executor or administrator of the transferor’s estate made under penalty of perjury that the transferor is a grandparent, parent, or child of the transferee. The written certification shall also include either or both of the following:

(i) If the purchase or transfer of real property includes the purchase or transfer of residential real property, a certification that the residential real property is or is not the transferor’s principal residence.

(ii) If the purchase or transfer of real property includes the purchase or transfer of real property other than the transferor’s principal residence, a certification that other real property of the transferor that is subject to this section has or has not been previously sold or transferred to an eligible transferee, the total amount of full cash value, as defined in subdivision (c), of any real property subject to this section that has been previously sold or transferred by that transferor to eligible transferees, the location of that real property,

the social security number of each eligible transferor, and the names of the eligible transferees of that property.

(2) If the full cash value of the real property purchased by or transferred to the transferee exceeds the permissible exclusion of the transferor or the combined permissible exclusion of the transferors, in the case of a purchase or transfer from two or more joint transferors, taking into account any previous purchases by or transfers to an eligible transferee from the same transferor or transferors, the transferee shall specify in his or her claim the amount and the allocation of the exclusion he or she is seeking. Within any appraisal unit, as determined in accordance with subdivision (d) of Section 51 by the assessor of the county in which the real property is located, the exclusion shall be applied only on a pro rata basis, however, and shall not be applied to a selected portion or portions of the appraisal unit.

(e) (1) The State Board of Equalization shall design the form for claiming eligibility. Except as provided in paragraph (2), any claim under this section shall be filed:

(A) For transfers of real property between parents and their children occurring prior to September 30, 1990, within three years after the date of the purchase or transfer of real property for which the claim is filed.

(B) For transfers of real property between parents and their children occurring on or after September 30, 1990, and for the purchase or transfer of real property between grandparents and their grandchildren occurring on or after March 27, 1996, within three years after the date of the purchase or transfer of real property for which the claim is filed, or prior to transfer of the real property to a third party, whichever is earlier.

(C) Notwithstanding subparagraphs (A) and (B), a claim shall be deemed to be timely filed if it is filed within six months after the date of mailing of a notice of supplemental or escape assessment, issued as a result of the purchase or transfer of real property for which the claim is filed.

(2) In the case in which the real property subject to purchase or transfer has not been transferred to a third party, a claim for exclusion under this section that is filed subsequent to the expiration of the filing periods set forth in paragraph (1) shall be considered by the assessor, subject to all of the following conditions:

(A) Any exclusion granted pursuant to that claim shall apply commencing with the lien date of the assessment year in which the claim is filed.

(B) Under any exclusion granted pursuant to that claim, the adjusted full cash value of the subject real property in the assessment year described in subparagraph (A) shall be the adjusted base year value of the subject real property in the assessment year in which the excluded purchase or transfer took place, factored to the assessment year described in subparagraph (A) for both of the following:

(i) Inflation as annually determined in accordance with paragraph (1) of subdivision (a) of Section 51.

(ii) Any subsequent new construction occurring with respect to the subject real property.

(3) (A) Unless otherwise expressly provided, the provisions of this subdivision shall apply to any purchase or transfer of real property that occurred on or after November 6, 1986.

(B) Paragraph (2) shall apply to purchases or transfers between parents and their children that occurred on or after November 6, 1986, and to purchases or transfers between grandparents and their grandchildren that occurred on or after March 27, 1996.

(f) The assessor shall report quarterly to the State Board of Equalization all purchases or transfers, other than purchases or transfers involving a principal residence, for which a claim for exclusion is made pursuant to subdivision (d). Each report shall contain the assessor's parcel number for each parcel for which the exclusion is claimed, the amount of each exclusion claimed, the social security number of each eligible transferor, and any other information the board shall require in order to monitor the one million dollar ($1,000,000) limitation in paragraph (2) of subdivision (a).

(g) This section shall apply to both voluntary transfers and transfers resulting from a court order or judicial decree. Nothing in this subdivision shall be construed as conflicting with paragraph (1) of subdivision (c) or the general principle that transfers by reason of death occur at the time of death.

(h) (1) Except as provided in paragraph (2), this section shall apply to purchases and transfers of real property completed on or after November 6, 1986, and shall not be effective for any change in ownership, including a change in ownership arising on the date of a decedent's death, that occurred prior to that date.

(2) This section shall apply to purchases or transfers of real property between grandparents and their grandchildren occurring on or after March 27, 1996, and, with respect to purchases or transfers of real property between grandparents and their grandchildren, shall not be effective for any change in ownership, including a change in ownership arising on the date of a decedent's death, that occurred prior to that date.

SEC. 2. 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 this section during the 1997–98 Regular Session of the Legislature, shall become operative on January 1, 1999.

SEC. 3. Section 255 of the Revenue and Taxation Code is amended to read:

255. (a) Affidavits required for exemptions named in this article, except the homeowners' exemption, shall be filed with the assessor between the lien date and 5 p.m. on February 15.

(b) Affidavits for the homeowners' exemption except as otherwise provided in Sections 255.1, 255.2, and 275, shall be filed with the assessor any time after the claimant becomes eligible but no later than 5 p.m. on February 15.

(c) Notwithstanding the provisions of subdivision (a), any claimant who has been found ineligible for the church exemption or the religious exemption may file an affidavit for a welfare exemption. Affidavits for the welfare exemption filed pursuant to this subdivision shall be filed within 15 days from the date of notification by the assessor of the claimants' ineligibility for the church exemption or the religious exemption.

SEC. 4. Section 255.3 of the Revenue and Taxation Code is amended to read:

255.3. For the 1998–99 fiscal year and each fiscal year thereafter, the assessor shall on or before January 15 mail a claim form for the homeowners' exemption to a person acquiring title to, and recording his or her ownership of an eligible dwelling after the immediately preceding lien date and before the lien date of the calendar year of the claim. The failure of a person to receive a claim form shall not, however, excuse the person from timely filing of the required affidavit.

SEC. 5. Section 273 of the Revenue and Taxation Code is amended to read:

273. If a claimant for the veterans' exemption fails to file the affidavit required by Section 255 because he or she was in the military service of the United States and serving outside of the United States between the lien date and 5 o'clock p.m. on February 15 of any year, the veterans' exemption may be claimed pursuant to Section 252 or 253 without regard to the time limit specified in Section 255. If the veterans' exemption is claimed pursuant to the preceding sentence, any tax, or penalty or interest thereon for any fiscal year commencing

during the calendar year in which the exemption is claimed, on property to the amount of one thousand dollars ($1,000) owned by the person to whom the veterans' exemption was available for that fiscal year, shall be canceled or refunded.

SEC. 6. Section 273.5 of the Revenue and Taxation Code is amended to read:

273.5. (a) If a claimant for the veterans' exemption for the 1976–77 fiscal year or any year thereafter fails to file the required affidavit with the assessor by 5 p.m. on February 15 of the calendar year in which the fiscal year begins, but files that claim on or before the following December 10, an exemption of the lesser of three thousand two hundred dollars ($3,200) or 80 percent of the full value of the property shall be granted by the assessor.

(b) On those claims filed pursuant to subdivision (a) after November 15, this exemption may be applied to the second installment, and if applied to the second installment, the first installment will still become delinquent on December 10, and the delinquent penalty provided for in this division will attach if the tax amount due is not paid.

If this exemption is applied to the second installment and if both installments are paid on or before December 10, or if the reduction in taxes from this exemption exceeds the amount of taxes due on the second installment, a refund shall be made to the taxpayer upon a claim submitted by the taxpayer to the auditor.

SEC. 7. Section 275 of the Revenue and Taxation Code is amended to read:

275. (a) If a claimant for the homeowners' property tax exemption fails to file the required affidavit with the assessor by 5 p.m. on February 15 of the calendar year in which the fiscal year begins, but files that affidavit on or before the following December 10, an exemption of the lesser of five thousand six hundred dollars ($5,600) or 80 percent of the full value of the dwelling shall be granted by the assessor.

(b) On claims filed pursuant to subdivision (a) after November 15, this partial homeowners' exemption may be applied to the second installment, and if applied to the second installment, the first installment will still become delinquent on December 10 and the delinquent penalty provided for in this division will attach if the tax amount due is not paid.

If this partial homeowners' exemption is applied to the second installment and if both installments are paid on or before December 10 or if the reduction in taxes from this partial exemption exceeds the amount of taxes due on the second installment, a refund shall be made to the taxpayer upon a claim submitted by the taxpayer to the auditor.

SEC. 8. Section 275.5 of the Revenue and Taxation Code is amended to read:

275.5. If a person claiming classification of a vessel as a documented vessel eligible for assessment under Section 227 fails to file the affidavit required by Section 254 by 5 p.m. on February 1 of the calendar year in which the fiscal year begins, but files that affidavit on or before the following August 1, the assessment shall be reduced in a sum equal to 80 percent of the reduction that would have been allowed had the affidavit been timely filed.

SEC. 9. Section 276 of the Revenue and Taxation Code is amended to read:

276. (a) A claimant for the disabled veterans' property tax exemption may qualify for a partial exemption if the claimant fails to file the required affidavit with the assessor by 5 p.m. on February 15 of the calendar year in which the fiscal year begins, but files the claim on or before the following December 10. Late-filed claims for the forty thousand dollar ($40,000) exemption provided in Section 205.5 shall receive the lesser of thirty-two thousand dollars ($32,000) or 80 percent of the full value of the dwelling. Late-filed claims for the sixty thousand dollar ($60,000) exemption provided in Section 205.5, when filed in conjunction with late-filed claims for the forty thousand dollar ($40,000) exemption, shall receive the lesser of forty-eight thousand dollars ($48,000) or 80 percent of the full value of the dwelling. Late-filed claims for the sixty thousand dollar ($60,000) exemption, when filed in conjunction with timely filed claims for the forty thousand dollar ($40,000) exemption, shall receive the lesser of fifty-six thousand dollars ($56,000) or forty thousand dollars ($40,000) plus 80 percent of the full value of the dwelling over forty thousand dollars ($40,000). Late-filed claims for the one hundred thousand dollar ($100,000) exemption provided in Section 205.5 shall receive the lesser of eighty thousand dollars ($80,000) or 80 percent of the full value of the dwelling. Late-filed claims for the one hundred fifty thousand dollar ($150,000) exemption provided in Section 205.5, when filed in conjunction with late-filed claims for the one hundred thousand dollar ($100,000) exemption, shall receive the lesser of one hundred twenty thousand dollars ($120,000) or 80 percent of the full value of the dwelling. Commencing with the 1990–91 assessment year, late-filed claims for the one hundred fifty thousand dollar ($150,000) exemption, when filed in conjunction with timely filed claims for the one hundred thousand dollar ($100,000) exemption, shall receive the lesser of one hundred forty thousand dollars ($140,000) or one hundred thousand dollars ($100,000) plus 80 percent of the full value of the dwelling over one hundred thousand dollars ($100,000).

(b) On those claims filed pursuant to subdivision (a) after November 15, this exemption may be applied to the second installment, and if applied to the second installment, the first installment will still become delinquent on December 10, and the delinquent penalty provided for in this division will attach if the tax amount due is not paid.

If this exemption is applied to the second installment and if both installments are paid on or before December 10, or if the reduction in taxes from this exemption exceeds the amount of taxes due on the second installment, a refund shall be made to the taxpayer upon a claim submitted by the taxpayer to the auditor.

SEC. 10. Section 401.13 is added to the Revenue and Taxation Code, to read:

401.13. Notwithstanding any other provision of law, on or after January 1, 1998, the assessor shall determine the assessed value of pipelines and related rights-of-way that are located wholly within the county on the basis of a single, countywide parcel per taxpayer, and, to that end, shall combine the assessed value of each component or segment of those pipelines or rights-of-way. However, the assessor shall maintain a separate base year value for each of these components or segments.

SEC. 11. Section 430.5 of the Revenue and Taxation Code is amended to read:

430.5. No land shall be valued pursuant to this article unless an enforceable restriction meeting the requirements of Section 422 is signed, accepted, and recorded on or before the lien date for the fiscal year to which the valuation would apply. To provide counties and cities with time to meet the requirement of this section, the land that is to be subject to a contract shall have been included in a proposal to establish an agricultural preserve submitted to the planning commission or planning department, or the matter of accepting an open-space easement or scenic restriction shall have been referred to that commission or department on or before October 15 preceding the lien date to which the contract, easement or restriction is to apply.

SEC. 12. Section 1603 of the Revenue and Taxation Code is amended to read:

1603. (a) A reduction in an assessment on the local roll shall not be made unless the party affected or his or her agent makes and files with the county board a verified, written application showing the facts claimed to require the reduction and the applicant's opinion of the full value of the property. The form for the application shall be prescribed by the State Board of Equalization.

(b) (1) The application shall be filed within the time period from July 2 to September 15, inclusive. An application that is mailed and postmarked September 15 or earlier within that period shall be deemed to have been filed within the time period beginning July 2 and continuing through and including September 15.

(2) If September 15 falls on Saturday, Sunday, or a legal holiday, an application that is mailed and postmarked on the next business day shall be deemed to have been filed within "the time period beginning July 2 and continuing through and including September 15." If on the dates specified in this paragraph, the county's offices are closed for

business prior to 5 p.m. or for that entire day, that day shall be considered a legal holiday for purposes of this section.

(3) If the taxpayer does not receive the notice of assessment described in Section 619 at least 15 calendar days prior to the deadline to file the application described in this subdivision, the party affected, or his or her agent, may file an application within 60 days of receipt of the notice of assessment or within 60 days of the mailing of the tax bill, whichever is earlier, along with an affidavit declaring under penalty of perjury that the notice was not timely received.

(c) However, the application may be filed within 12 months following the month in which the assessee is notified of the assessment, if the party affected or his or her agent and the assessor stipulate that there is an error in the assessment as the result of the exercise of the assessor's judgment in determining the full cash value of the property and a written stipulation as to the full cash value and assessed value is filed in accordance with Section 1607.

(d) Upon the recommendation of the assessor and the clerk of the county board of equalization, the board of supervisors may adopt a resolution providing that an application may be filed within 60 days of the mailing of the notice of the assessor's response to a request for reassessment pursuant to paragraph (2) of subdivision (a) of Section 51, if all of the following conditions are met:

(1) The request for reassessment was submitted in writing to the assessor in the form prescribed by the State Board of Equalization and includes all information that is prescribed by the State Board of Equalization.

(2) The request for reassessment was made on or before the immediately preceding March 15.

(3) The assessor's response to the request for reassessment was mailed on or after September 1 of the calendar year in which the request for reassessment was made.

(4) The assessor did not reduce the assessment in question in the full amount as requested.

(5) The application for changed assessment is filed on or before December 31 of the year in which the request for reassessment was filed.

(6) The application for reduction in assessment is accompanied by a copy of the assessor's response to the request for reassessment.

(e) In the form provided for making application pursuant to this section, there shall be a notice that written findings of facts of the local equalization hearing will be available upon written request at the requester's expense and, if not so requested, the right to those written findings is waived. The form shall provide appropriate space for the applicant to request written findings of facts as provided by Section 1611.5.

(f) The form provided for making an application pursuant to this section shall contain the following language in the signature block:

I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing and all information hereon, including any accompanying statements or documents, is true, correct, and complete to the best of my knowledge and belief and that I am (1) the owner of the property or the person affected (i.e., a person having a direct economic interest in the payment of the taxes on that property -- "The Applicant," (2) an agent authorized by the applicant under Item 2 of this application, or (3) an attorney licensed to practice law in the State of California, State Bar No. ________, who has been retained by the applicant and has been authorized by that person to file this application.

SEC. 13. Section 5145.5 is added to the Revenue and Taxation Code, to read:

5145.5. (a) Notwithstanding the fact that all taxes on a property have not been paid in full, the owner of that property may, subject to the limitations set forth in subdivision (d), bring an action in accordance with Section 5140 at any time within six months after the rejection of a claim for the refund of the first installment that is paid under an installment plan for payment of escape assessments that is entered into pursuant to Section 4837.5.

(b) The right to maintain an action pursuant to this section shall terminate if there is a default on the part of the assessee with respect to any obligation in the installment plan for payment of the escape assessment.

(c) If the owner does not recover the amount of taxes in dispute in an action brought under this section, he or she shall pay additional interest to the county or city in an amount equal to the difference between the amount of interest he or she has paid under Section 506 and the amount of interest that the county or city would have earned in the impound account in connection with the entire amount of tax determined by the court to be due if that amount had been paid prior to delinquency.

(d) (1) This section shall not apply in cases where the penalty pursuant to Section 503 has been added to the escape assessment and upheld by the appeals board or the county board of equalization.

(2) This section shall apply to installment plans initiated by written requests filed with the tax collector on or after July 1, 1997.

SEC. 14. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because in that regard this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local

agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

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

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## CHAPTER 942

An act to amend Section 1596.792 of the Health and Safety Code, and to amend Section 5056 of the Penal Code, relating to crimes, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 12, 1997. Filed with Secretary of State October 12, 1997.]

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

SECTION 1. Section 1596.792 of the Health and Safety Code is amended to read:

1596.792. This chapter and Chapters 3.5 (commencing with Section 1596.90) and 3.6 (commencing with Section 1597.30) do not apply to any of the following:

(a) Any health facility, as defined by Section 1250.

(b) Any clinic, as defined by Section 1202.

(c) Any community care facility, as defined by Section 1502.

(d) Any family day care home providing care for the children of only one family in addition to the operator's own children.

(e) Any cooperative arrangement between parents for the care of their children where no payment is involved and the arrangement meets all of the following conditions:

(1) In a cooperative arrangement, parents shall combine their efforts so that each parent, or set of parents, rotates as the responsible care giver with respect to all the children in the cooperative.

(2) Any person caring for children shall be a parent, legal guardian, stepparent, grandparent, aunt, uncle, or adult sibling of at least one of the children in the cooperative.

(3) There can be no payment of money or receipt of in-kind income in exchange for the provision of care. This does not prohibit in-kind contributions of snacks, games, toys, blankets for napping, pillows, and other materials parents deem appropriate for their children. It is not the intent of this paragraph to prohibit payment for outside activities, the amount of that may not exceed the actual cost of the activity.

(4) No more than 12 children are receiving care in the same place at the same time.

(f) Any arrangement for the receiving and care of children by a relative.

(g) Any public recreation program. "Public recreation program" means a program operated by the state, city, county, special district, school district, community college district, chartered city, or chartered city and county that meets either of the following criteria:

(1) The program is operated only during hours other than normal school hours for grades K–12, inclusive, in the public school district where the program is located, or operated only during periods when students in grades K–12, inclusive, are normally not in session in the public school district where the program is located, for either of the following periods:

(A) For under 16 hours per week.

(B) For a total of 12 weeks or less during a 12-month period. This total applies to any 12 weeks within any 12-month period, without regard to whether the weeks are consecutive.

In determining "normal school hours" or periods when students are "normally not in session," the State Department of Social Services shall, where appropriate, consider the normal school hours or periods when students are normally not in session for students attending a year-round school.

(2) The program is provided to children who are over the age of four years and nine months and not yet enrolled in school and the program is operated during either of the following periods:

(A) For under 16 hours per week.

(B) For a total of 12 weeks or less during a 12-month period. This total applies to any 12 weeks within any 12-month period, without regard to whether the weeks are consecutive.

(3) The program is provided to children under the age of four years and nine months with sessions that run 12 hours per week or less and are 12 weeks or less in duration. A program subject to this paragraph may permit children to be enrolled in consecutive sessions throughout the year. However, the program shall not permit children to be enrolled in a combination of sessions that total more than 12 hours per week for each child.

(h) Extended day care programs operated by public or private schools.

(i) Any school parenting program or adult education child care program that satisfies both of the following:

(1) Is operated by a public school district or operated by an individual or organization pursuant to a contract with a public school district.

(2) Is not operated by an organization specified in Section 1596.793.

(j) Any child day care program that operates only one day per week for no more than four hours on that one day.

(k) Any child day care program that offers temporary child care services to parents and which satisfies both of the following:

(1) The services are only provided to parents and guardians who are on the same premises as the site of the child day care program.

(2) The child day care program is not operated on the site of a ski facility, shopping mall, department store, or any other similar site identified by the department by regulation.

(*l*) Any program that provides activities for children of an instructional nature in a classroom-like setting and satisfies both of the following:

(1) Is operated only during periods of the year when students in grades K–12, inclusive, are normally not in session in the public school district where the program is located due to regularly scheduled vacations.

(2) Offers any number of sessions during the period specified in paragraph (1) that when added together do not exceed a total of 30 days when only schoolage children are enrolled in the program or 15 days when children younger than schoolage are enrolled in the program.

(m) A program facility administered by the Department of Corrections that (1) houses both women and their children, and (2) is specifically designated for the purpose of providing substance abuse treatment and maintaining and strengthening the family unit pursuant to Chapter 4 (commencing with Section 3410) of Title 2 of Part 3 of the Penal Code, or Chapter 4.8 (commencing with Section 1174) of Title 7 of Part 2 of that code.

SEC. 2. Section 5056 of the Penal Code is amended to read:

5056. (a) Each state prison under the jurisdiction of the department shall have a citizens' advisory committee except that one committee may serve every prison located in the same city or community. Each committee shall consist of not more than 15 members appointed by the institution's warden, nine of whom shall be appointed from a list of nominations submitted to him or her as follows:

(1) Two persons from nominations submitted by the Assembly Member in whose district the prison is located.

(2) Two persons from nominations submitted by the Senator in whose district the prison is located.

(3) Two persons from nominations submitted by the city council of the city containing or nearest to the institution.

(4) Two persons from nominations submitted by the county board of supervisors of the county containing the institution.

(5) One person from nominations submitted by the chief of police of the city containing or nearest to the institution and the county sheriff of the county containing the institution.

(b) Where a citizens' advisory committee serves more than one prison, the warden of each prison served by this committee shall

collaborate with every other warden of a prison served by the committee for the purpose of appointing committee members.

(c) Each committee shall select its own chairperson by a majority vote of its members. The term of office of all members shall be two years. In the event of a vacancy due to resignation, death, or absence from three consecutive meetings, the appointing power shall fill the vacancy following receipt of written notification that a vacancy has occurred.

(d) Each committee shall meet at least once every two months or as often, on the call of the chairperson, as necessary to carry out the purposes and duties of the committee. Meetings of the committee shall be open to the public. The warden of each institution shall meet with the committee at least four times each year.

The advisory committees of the several institutions shall have the power of visitation of prison facilities and personnel in furtherance of the goals of this section.

(e) Nothing in this section shall be construed to require the disclosure by the department of information which may threaten the security of an institution or the safety of the surrounding community, nor shall the power of visitation specified in subdivision (d) extend to situations where institutional security would be jeopardized.

SEC. 3. (a) Notwithstanding Section 9609 of the Government Code or any other provision of law, the provisions of Chapter 5 of the Statutes of 1997 became effective and operative as sections added to the Vehicle Code on the date of enactment of that chapter.

(b) The provisions of subdivision (a) do not constitute a change in, but are declaratory of, existing law.

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 this act, which relates to the deterrence of crime, at the earliest possible time, thereby protecting the safety of the public, it is necessary that this act take effect immediately.

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## CHAPTER 943

An act to add and repeal Section 56302 of the Government Code, relating to local government reorganization, and making an appropriation therefor.

[Approved by Governor October 12, 1997. Filed with Secretary of State October 12, 1997.]

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

SECTION 1. Section 56302 is added to the Government Code, to read:

56302. (a) The Legislature finds and declares that nearly 35 years have passed since legislators last conducted a thorough investigation of the policies, practices, and statutes affecting the organization and boundaries of California's local agencies. That effort, which resulted in the enactment of the Knox-Nisbet Act, was the product of a careful study by the Commission on Metropolitan Area Problems, commissioned by Governor Edmund G. Brown, Sr. In the intervening decades, there have been fundamental, constitutional, demographic, economic, institutional, and political shifts in California and within the state's communities. The sustained interest in incorporating new cities, resistance to city annexations, problems in financing local agency facilities and services, and proposals to detach territory from existing cities demonstrate the need for the Legislature and the Governor to reevaluate the statutory policies and procedures that have guided California's communities for nearly 35 years. Therefore, the Legislature finds and declares the necessity for commissioning a careful study of local agency organization and boundaries, consistent with its constitutional duty pursuant to subdivision (a) of Section 2 of Article XI of the California Constitution.

(b) There is created the Commission on Local Governance for the 21st Century which shall consist of 15 members. The Governor shall appoint nine members, the Assembly Committee on Rules shall appoint three members, and the Senate Committee on Rules shall appoint three members. Of the Governor's appointments, one shall be a city representative, one shall be a county representative, one shall be a special district representative, and one shall be a representative of local agency formation commissions. Each appointing authority shall endeavor to appoint members who reflect the geographic, ethnic, racial, gender, and cultural diversity of the state. Each appointing authority shall appoint members who have demonstrated an interest and have proven academic or professional ability in the fields of demography, urban economics, land use planning, public finance, and the legal aspects of local agency organization and boundaries.

(c) Notwithstanding Section 7550.5, on or before June 30, 1999, the commission shall report to the Legislature and the Governor regarding all of the following:

(1) A review of the current statutes, including, but not limited to, this division, regarding the policies, criteria, procedures, and precedents for city, county, and special district boundary changes.

(2) Proposals to add criteria to increase citizen and community participation in city, county, and special district governments.

(3) Proposals to ensure conformity with the requirements of federal law, including, but not limited to, the federal Voting Rights Act of 1965 (42 U.S.C. Sec. 1971).

(4) Recommendations for statutory changes, if any.

(d) The commission shall conduct public meetings to solicit the views and advice of the public, including elected and appointed officials, regarding city, county, and special district organization and boundaries.

(e) The commission shall select a chair and a vice chair from among its membership.

(f) The members of the commission shall be reimbursed their actual and necessary expenses for attending the meetings of the commission. The commission may authorize a payment of a per diem not to exceed one hundred dollars ($100) to its members for each day while they are in attendance at meetings of the commission. The commission may appoint employees, including counsel, define their qualifications and duties, and provide for compensation for the performance of those duties. The commission may contract with any other public or private agency for any services necessary to carry out the purposes of this section. The cost of the quarters, equipment, supplies, and operating expenses incurred by the commission shall be paid from the appropriation made by the act which enacted this section.

(g) The commission shall remain in existence until January 1, 2000, and as of that date, this section is repealed, unless a later enacted statute, enacted on or before January 1, 2000, deletes or extends this section and the commission's existence.

SEC. 2. The sum of two hundred fifty thousand dollars ($250,000) is hereby appropriated from the General Fund , for the 1997–98 fiscal year, to the Commission on Local Governance for the 21st Century created by this act to carry out its duties and responsibilities.

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## CHAPTER 944

An act to amend Section 11461 of the Welfare and Institutions Code, relating to human services.

[Approved by Governor October 12, 1997. Filed with Secretary of State October 12, 1997.]

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

SECTION 1. Section 11461 of the Welfare and Institutions Code is amended to read:

11461. (a) For children placed in a licensed or approved family home with a capacity of six or less, or in an approved home of a relative or nonrelated legal guardian, the per child per month rates

in the following schedule shall be in effect for the period July 1, 1989, through December 31, 1989:

| Age | Basic rate |
|---|---|
| 0–4 | $ 294 |
| 5–8 | 319 |
| 9–11 | 340 |
| 12–14 | 378 |
| 15–20 | 412 |

(b) (1) Any county that, as of October 1, 1989, has in effect a basic rate that is at the levels set forth in the schedule in subdivision (a), shall continue to receive state participation, as specified in subdivision (c) of Section 15200, at these levels.

(2) Any county that, as of October 1, 1989, has in effect a basic rate that exceeds a level set forth in the schedule in subdivision (a), shall continue to receive the same level of state participation as it received on October 1, 1989.

(c) The amounts in the schedule of basic rates in subdivision (a) shall be adjusted as follows:

(1) Effective January 1, 1990, the amounts in the schedule of basic rates in subdivision (a) shall be increased by 12 percent.

(2) Effective May 1, 1990, any county that did not increase the basic rate by 12 percent on January 1, 1990, shall do both of the following:

(A) Increase the basic rate in effect December 31, 1989, for which state participation is received by 12 percent.

(B) Increase the basic rate, as adjusted pursuant to subparagraph (A) by an additional 5 percent.

(3) (A) Except as provided in subparagraph (B), effective July 1, 1990, for the 1990–91 fiscal year, the amounts in the schedule of basic rates in subdivision (a) shall be increased by an additional 5 percent.

(B) The rate increase required by subparagraph (A) shall not be applied to rates increased May 1, 1990, pursuant to paragraph (2).

(4) Effective July 1, 1998, the amounts in the schedule of basic rates in subdivision (a) shall be increased by 6 percent.

(5) The increase in the basic foster family home rate shall apply only to children placed in a licensed foster family home receiving the basic rate or in an approved home of a relative or nonrelated legal guardian receiving the basic rate. The increased rate shall not be used to compute the monthly amount that may be paid to licensed foster family agencies for the placement of children in certified foster homes.

(d) (1) Beginning with the 1991–92 fiscal year, the schedule of basic rates in subdivision (a) shall be adjusted by the percentage changes in the California Necessities Index, computed pursuant to

the methodology described in Section 11453, subject to the availability of funds.

(2) Any county that, as of the 1991–92 fiscal year, receives state participation for a basic rate that exceeds the amount set forth in the schedule of basic rates in subdivision (a) shall receive an increase each year in state participation for that basic rate of one-half of the percentage adjustments specified in paragraph (1) until the difference between the county's adjusted state participation level for its basic rate and the adjusted schedule of basic rates is eliminated.

(3) If a county has, after receiving the adjustments specified in paragraph (2), a state participation level for a basic rate that is below the amount set forth in the adjusted schedule of basic rates for that fiscal year, the state participation level for that rate shall be further increased to the amount specified in the adjusted schedule of basic rates.

(e) (1) As used in this section, "specialized care increment" means an approved amount paid with state participation on behalf of an AFDC-FC child requiring specialized care to a home listed in subdivision (a) in addition to the basic rate. On the effective date of this section, the department shall continue and maintain the current ratesetting system for specialized care.

(2) Any county that, as of the effective date of this section, has in effect specialized care increments that have been approved by the department, shall continue to receive state participation for those payments.

(3) Any county that, as of the effective date of this section, has in effect specialized care increments that exceed the amounts that have been approved by the department, shall continue to receive the same level of state participation as it received on the effective date of this section.

(4) (A) Except for subparagraph (B), beginning January 1, 1990, specialized care increments shall be adjusted in accordance with the methodology for the schedule of basic rates described in subdivision (c). No county shall receive state participation for any increases in a specialized care increment which exceeds the adjustments made in accordance with this methodology.

(B) Notwithstanding subdivision (e) of Section 11460, for the 1993–94 fiscal year, an amount equal to 5 percent of the State Treasury appropriation for family homes shall be added to the total augmentation for the AFDC-FC program in order to provide incentives and assistance to counties in the area of specialized care. This appropriation shall be used, but not limited to, encouraging counties to implement or expand specialized care payment systems, to recruit and train foster parents for the placement of children with specialized care needs, and to develop county systems to encourage the placement of children in family homes. It is the intent of the Legislature that in the use of these funds, federal financial participation shall be claimed whenever possible.

(f) (1) As used in this section, “clothing allowance” means the amount paid with state participation in addition to the basic rate for the provision of additional clothing for an AFDC-FC child, including, but not limited to, an initial supply of clothing and school or other uniforms.

(2) Any county that, as of the effective date of this section, has in effect clothing allowances, shall continue to receive the same level as it received on the effective date of this section.

(3) Beginning January 1, 1990, clothing allowances shall be adjusted annually in accordance with the methodology for the schedule of basic rates described in subdivision (c). No county shall be reimbursed for any increases in clothing allowances which exceed the adjustments made in accordance with this methodology.

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## CHAPTER 945

An act to amend Sections 25161, 25167.4, and 25323.6 of, and to add Section 25168.1 to, the Health and Safety Code, to amend Section 1463.22 of the Penal Code, to amend Sections 20281 and 20291 of the Public Contract Code, to amend Section 391 of, and to add Section 391.1 to, to the Streets and Highways Code, and to amend Sections 2256, 4456, 5066, 5204, 11520, 16028, 22507.8, 22651.5, 22655, 24953, 25251, 25258, 25259, 26101, 27000, 34001, 34060, 34622, and 40000.16 of, to add Sections 2420, 21718, and 34500.5 to, and to repeal Section 22520 of, the Vehicle Code, relating to transportation.

[Approved by Governor October 12, 1997. Filed with
Secretary of State October 12, 1997.]

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

SECTION 1. Section 25161 of the Health and Safety Code is amended to read:

25161. (a) The department may adopt and enforce those regulations, regarding a uniform program for hazardous waste transportation, that are necessary and appropriate to achieve consistency with the findings made by the Federal Highway Administration and the federal Department of Transportation pursuant to Chapter 51 (commencing with Section 5101) of Title 49 of the United States Code.

(b) The department shall adopt and enforce all rules and regulations that are necessary and appropriate to accomplish the purposes of Section 25160.

(c) The department shall develop a data base that tracks all hazardous waste shipped in and out of state for handling, treatment, storage, disposal, or any combination thereof, which includes all of the following information:

(1) The state or country receiving the waste.
(2) Month and year of shipment.
(3) Type of hazardous waste shipped.
(4) The manner in which the hazardous waste was handled at its final destination, such as incineration, treatment, recycling, land disposal, or a combination thereof.

(d) The department shall include in the biennial report specified in Section 25178 all of the following information:

(1) The total volume in tons of hazardous waste generated in the state and shipped offsite for handling, treatment, storage, disposal, or any combination thereof.

(2) The total volume in tons of hazardous waste generated in the state and shipped in and out of the state for handling, treatment, storage, disposal, or any combination thereof, including all of the following information:

(A) The state or country receiving the hazardous waste.
(B) Month and year of shipment.
(C) Type of hazardous waste shipped.
(D) The manner in which the hazardous waste was handled at its final destination, such as incineration, treatment, recycling, land disposal, or a combination thereof.

SEC. 2. Section 25167.4 of the Health and Safety Code is amended to read:

25167.4. For purposes of this article, the following terms have the following meaning:

(a) "Vehicle" means a truck, trailer, semitrailer, or cargo tank. "Vehicle" does not include a truck tractor unless it is capable of containing a portion of the cargo.

(b) "Container" means a portable tank, intermediate bulk container, or rolloff bin.

SEC. 3. Section 25168.1 is added to the Health and Safety Code, to read:

25168.1. The department shall adopt regulations for containers used to transport hazardous waste that are not subject to the federal regulations contained in Title 49 of the Code of Federal Regulations.

SEC. 4. Section 25323.6 of the Health and Safety Code is amended to read:

25323.6. Any person who unknowingly transports hazardous waste to a solid waste facility pursuant to the exemption provided in subdivision (e) of Section 25163 shall not be considered a responsible party for purposes of this chapter solely because of the act of transporting the waste. Nothing in this section shall affect the liability of this person for his or her negligent acts.

SEC. 5. Section 1463.22 of the Penal Code is amended to read:

1463.22. (a) Notwithstanding Section 1463, of the moneys deposited with the county treasurer pursuant to Section 1463, seventeen dollars and fifty cents ($17.50) for each conviction of a violation of Section 16028 of the Vehicle Code shall be deposited by

the county treasurer in a special account and allocated to defray costs of municipal and justice courts incurred in administering Sections 16028, 16030, and 16031 of the Vehicle Code. Any moneys in the special account in excess of the amount required to defray those costs shall be redeposited and distributed by the county treasurer pursuant to Section 1463.

(b) Notwithstanding Section 1463, of the moneys deposited with the county treasurer pursuant to Section 1463, three dollars ($3) for each conviction for a violation of Section 16028 of the Vehicle Code shall be initially deposited by the county treasurer in a special account, and shall be transmitted once per month to the Controller for deposit in the Motor Vehicle Account in the State Transportation Fund. These moneys shall be available, when appropriated, to defray the administrative costs incurred by the Department of Motor Vehicles pursuant to Sections 16031, 16032, 16034, and 16035 of the Vehicle Code. It is the intent of this subdivision to provide sufficient revenues to pay for all of the department's costs in administering those sections of the Vehicle Code.

(c) Notwithstanding Section 1463, of the moneys deposited with the county treasurer pursuant to Section 1463, ten dollars ($10) upon the conviction of, or upon the forfeiture of bail from, any person arrested or notified for a violation of Section 16028 of the Vehicle Code shall be deposited by the county treasurer in a special account and shall be transmitted monthly to the Controller for deposit in the General Fund.

SEC. 6. Section 20281 of the Public Contract Code is amended to read:

20281. The purchase of all supplies, equipment and materials, when the expenditure required exceeds twenty-five thousand dollars ($25,000), and the construction of facilities and works, when the expenditure exceeds three thousand dollars ($3,000), shall be by contract let to the lowest responsible bidder. Notice requesting bids shall be published at least once in a newspaper of general circulation, which publication shall be made at least 10 days before bids are received. The board may reject any and all bids and readvertise in its discretion.

SEC. 7. Section 20291 of the Public Contract Code is amended to read:

20291. The purchase of all supplies, equipment and materials, when the expenditure required exceeds twenty-five thousand dollars ($25,000), and construction of facilities and works, when the expenditure required exceeds ten thousand dollars ($10,000), shall be by contract let to the lowest responsible bidder. Notice requesting bids shall be published at least once in a newspaper of general circulation, which publication shall be made at least 10 days before bids are received. The board may reject any and all bids and readvertise in its discretion.

SEC. 8. Section 391 of the Streets and Highways Code is amended to read:

391. Route 91 is from :

(a) Route 1 near Hermosa Beach to Western Avenue in the City of Gardena.

(b) Vermont Avenue in the City of Gardena to Route 215 in Riverside via Santa Ana Canyon.

(c) The portion of the adopted route between Western Avenue and Vermont Avenue in the City of Gardena shall cease to be a state highway pursuant to the terms of a cooperative agreement between the City of Gardena and the department providing for the relinquishment of that portion of the highway to the City of Gardena.

SEC. 9. Section 391.1 is added to the Streets and Highways Code, to read:

391.1. Upon a determination by the commission that it is in the best interests of the state to do so, the commission may, upon terms and conditions approved by it, relinquish a portion of Route 91 to the City of Torrance in which that portion of the highway is located, if the city has agreed to accept it. The relinquishment shall be effective on the day immediately following the commission's approval of the terms and conditions.

SEC. 10. Section 2256 of the Vehicle Code is amended to read:

2256. Notwithstanding Section 18932 of the Government Code, the minimum age limit for appointment to the position of entry level peace officer of the Department of the California Highway Patrol, shall be 21 years, and the maximum age limit for examination shall be 31 years.

SEC. 11. Section 2420 is added to the Vehicle Code, to read:

2420. (a) The department may enter into a contract to conduct an inspection of vehicles that are subject to Section 500.100 of Title 29 of the Code of Federal Regulations and issue the vehicle inspection sticker authorized under subdivision (b) of that section to qualified vehicles.

(b) Any contract entered into under subdivision (a) shall provide that the amount to be paid to the department shall be equal to the costs incurred by the department for services provided under the contract.

SEC. 12. Section 4456 of the Vehicle Code is amended to read:

4456. (a) When selling a vehicle, dealers and lessor-retailers shall use numbered report-of-sale forms issued by the department. The forms shall be used in accordance with the following terms and conditions:

(1) The dealer or lessor-retailer shall attach for display a copy of the report of sale on the vehicle before the vehicle is delivered to the purchaser.

(2) The dealer or lessor-retailer shall submit to the department an application accompanied by all fees and penalties due for registration or transfer of registration of the vehicle within 30 days from the date

of sale if the vehicle is a used vehicle, and 20 days if the vehicle is a new vehicle. Penalties due for noncompliance with this paragraph shall be paid by the dealer or lessor-retailer. The dealer or lessor-retailer shall not charge the purchaser for the penalties.

(3) As part of an application to transfer registration of a used vehicle, the dealer or lessor-retailer shall include all of the following information on the certificate of title, application for a duplicate certificate of title, or form prescribed by the department:

(A) Date of sale and report of sale number.

(B) Purchaser's name and address.

(C) Dealer's name, address, number, and signature or signature of authorized agent.

(D) Salesperson number.

(4) If the department returns an application and the application was first received by the department within 30 days of the date of sale of the vehicle if the vehicle is a used vehicle, and 20 days if the vehicle is a new vehicle, the dealer or lessor-retailer shall submit a corrected application to the department within 50 days from the date of sale of the vehicle if the vehicle is a used vehicle, and 40 days if the vehicle is a new vehicle, or within 30 days from the date that the application is first returned by the department if the vehicle is a used vehicle, and 20 days if the vehicle is a new vehicle, whichever is later.

(5) If the department returns an application and the application was first received by the department more than 30 days from the date of sale of the vehicle if the vehicle is a used vehicle, and 20 days if the vehicle is a new vehicle, the dealer or lessor-retailer shall submit a corrected application to the department within 50 days from the date of sale of the vehicle if the vehicle is a used vehicle, and 40 days if the vehicle is a new vehicle.

(6) An application first received by the department more than 50 days from the date of sale of the vehicle if the vehicle is a used vehicle, and 40 days if the vehicle is a new vehicle, is subject to the penalties specified in subdivisions (a) and (b) of Section 4456.1.

(7) The dealer or lessor-retailer shall report the sale pursuant to Section 5901.

(b) (1) A transfer that takes place through a dealer conducting a wholesale motor vehicle auction shall be reported to the department by that dealer on a single form approved by the department. The completed form shall contain, at a minimum, all of the following information:

(A) The name and address of the seller.

(B) The seller's dealer number, if applicable.

(C) The date of delivery to the dealer conducting the auction.

(D) The actual mileage of the vehicle as indicated by the vehicle's odometer at the time of delivery to the dealer conducting the auction.

(E) The name, address, and occupational license number of the dealer conducting the auction.

(F) The name, address, and occupational license number of the buyer.

(G) The signature of the dealer conducting the auction.

(2) Submission of the completed form specified in paragraph (1) to the department shall fully satisfy the requirements of subdivision (a) and subdivision (a) of Section 5901 with respect to the dealer selling at auction and the dealer conducting the auction.

(3) The single form required by this subdivision does not relieve a dealer of any obligation or responsibility that is required by any other provision of law.

(c) A vehicle displaying a copy of the report of sale may be operated without license plates or registration card until either of the following, whichever occurs first:

(1) The license plates and registration card are received by the purchaser.

(2) A six-month period, commencing with the date of sale of the vehicle, has expired.

SEC. 13. Section 5066 of the Vehicle Code is amended to read:

5066. (a) This section shall be known, and may be cited, as the Gene Chappie Heritage Network Act of 1992.

(b) The Department of Parks and Recreation may participate in the special interest license plate program. In addition to the regular fees for an original registration, a renewal of registration, or a transfer of registration, the following fees shall be paid by individuals applying for the issuance, renewal, or transfer of a license plate bearing a design or decal conforming to Section 5060, designed by the Department of Motor Vehicles in consultation with the Department of Parks and Recreation:

(1) For the original issuance of the plates, forty dollars ($40).

(2) For a renewal of registration with the plates, thirty dollars ($30).

(3) For transfer of the plates to another vehicle, fifteen dollars ($15).

(4) For each substitute replacement plate, thirty-five dollars ($35).

(5) For each universal decal for existing plates, twenty dollars ($20).

(c) After deducting its administrative costs under this section, the Department of Motor Vehicles shall deposit the additional revenue derived from the issuance, renewal, transfer, and substitution of special interest license plates in the Heritage Network Decal Fund, which is hereby created in the State Treasury. The money in the fund shall be available, upon appropriation by the Legislature, for the purposes of Chapter 1.1 (commencing with Section 5078) of Division 5 of the Public Resources Code. Notwithstanding Sections 5078.2 and 5078.3 of the Public Resources Code, money in the fund shall be available for appropriation during the 1992–93, 1993–94, and 1994–95 fiscal years solely for state park system units and projects along

existing and provisional state heritage corridors, including activities to prevent closures, and for completion of the North Central California Heritage Corridors Access Map.

(d) Sections 5106 and 5108 do not apply to license plates issued pursuant to this section.

SEC. 14. Section 5204 of the Vehicle Code is amended to read:

5204. (a) Except as provided by subdivisions (b) and (c), a tab shall indicate the year of expiration and a tab shall indicate the month of expiration. Current month and year tabs shall be attached to the rear license plate assigned to the vehicle for the last preceding registration year in which license plates were issued, and, when so attached, the license plate with the tabs shall, for the purposes of this code, be deemed to be the license plate, except that truck tractors, and commercial motor vehicles having an unladen weight of 10,000 pounds or more, shall display the current month and year tabs upon the front license plate assigned to the truck tractor or commercial motor vehicle. Vehicles that fail to display current month and year tabs or display expired tabs are in violation of this section.

(b) The requirement of subdivision (a) that the tabs indicate the year and the month of expiration does not apply to fleet vehicles subject to Article 9.5 (commencing with Section 5300).

(c) Subdivision (a) does not apply when proper application for registration has been made pursuant to Section 4602 and the new indicia of current registration have not been received from the department.

(d) This section is enforceable against any motor vehicle that is driven, moved, or left standing upon a highway, or in an offstreet public parking facility, in the same manner as provided in subdivision (a) of Section 4000.

SEC. 15. Section 11520 of the Vehicle Code is amended to read:

11520. (a) A licensed automobile dismantler who acquired, for the purpose of dismantling, actual possession, as a transferee, of a vehicle of a type subject to registration under this code shall do all of the following:

(1) Within five calendar days, not including the day of acquisition, mail a notice of acquisition to the department at its headquarters.

(2) Within five calendar days, not including the day of acquisition, mail a copy of the notice of acquisition to the Department of Justice at its headquarters.

(3) Not begin dismantling until 10 calendar days have elapsed after mailing the notice of acquisition. In the alternative, dismantling may begin any time after the dismantler complies with paragraph (4).

(4) Deliver to the department, within 90 calendar days of the date of acquisition, the documents evidencing ownership and the license plates last issued for the vehicle. Proof that a registered or certified letter of demand for the documents was sent within 90 days of the date of acquisition to the person from whom the vehicle was acquired

may be substituted for documents that cannot otherwise be obtained. A certificate of license plate destruction, when authorized by the director, may be delivered in lieu of the license plates.

(5) Maintain a business record of all vehicles acquired for dismantling. The record shall contain the name and address of the person from whom the vehicle was acquired; the date the vehicle was acquired; the license plate number last assigned to the vehicle; and a brief description of the vehicle, including its make, type, and the vehicle identification number used for registration purposes. The record required by this paragraph shall be a business record of the dismantler separate and distinct from the records maintained in those books and forms furnished by the department.

(b) Paragraphs (1) and (2) of subdivision (a) do not apply to vehicles acquired pursuant to Section 11515, 11515.2, 22851.2, or 22851.3 of this code or Section 3071, 3072, or 3073 of the Civil Code.

(c) Paragraphs (1), (2), (3), and (4) of subdivision (a) do not apply to a vehicle acquired from another person if the other person has already notified and cleared the vehicle for dismantling with the department pursuant to this code and a bill of sale has been executed to the dismantler that properly identifies the vehicle and contains evidence of clearance by the department, including, but not limited to, a dismantling report number, temporary receipt number, or other proof of compliance with this section.

SEC. 16. Section 16028 of the Vehicle Code is amended to read:

16028. (a) Upon demand of a peace officer pursuant to subdivision (b) or (c), every person who drives upon a highway a motor vehicle required to be registered in this state shall provide evidence of financial responsibility for the vehicle. However, a peace officer shall not stop a vehicle for the sole purpose of determining whether the vehicle is being driven in violation of this subdivision.

(b) Whenever a notice to appear is issued for any alleged violation of this code, except a violation specified in Chapter 9 (commencing with Section 22500) of Division 11 or any local ordinance adopted pursuant thereto, the cited driver shall furnish written evidence of financial responsibility upon request of the peace officer issuing the citation. The peace officer shall request and write the driver’s evidence of financial responsibility on the notice to appear, except where the peace officer is unable to write the driver’s evidence of financial responsibility on the notice to appear due to an emergency that requires his or her presence elsewhere. If the cited driver fails to provide evidence of financial responsibility at the time the notice to appear is issued, the peace officer may issue the driver a notice to appear for violation of subdivision (a). The notice to appear for violation of subdivision (a) shall be written on the same citation form as the original violation.

(c) Whenever a peace officer, or a regularly employed and salaried employee of a city or county who has been trained as a traffic collision investigator, is summoned to the scene of an accident

described in Section 16000, the driver of any motor vehicle that is in any manner involved in the accident shall furnish written evidence of financial responsibility upon the request of the peace officer or traffic collision investigator. If the driver fails to provide evidence of financial responsibility when requested, the peace officer may issue the driver a notice to appear for violation of this subdivision. A traffic collision investigator may cause a notice to appear to be issued for a violation of this subdivision, upon review of that citation by a peace officer.

(d) (1) If, at the time a notice to appear for a violation of subdivision (a) is issued, the person is driving a motor vehicle owned, operated, or leased by the driver's employer, and the vehicle is being driven with the permission of the employer, this section shall apply to the employer rather than the driver. In that case, a notice to appear shall be issued to the employer rather than the driver, and the driver may sign the notice on behalf of the employer.

(2) The driver shall notify the employer of the receipt of the notice issued pursuant to paragraph (1) not later than five days after receipt.

(e) A person issued a notice to appear for a violation of subdivision (a) may personally appear before the clerk of the court, as designated in the notice to appear, and provide written evidence of financial responsibility in a form consistent with Section 16020, showing that the driver was in compliance with that section at the time the notice to appear for violating subdivision (a) was issued. In lieu of a personal appearance, the person may submit written evidence of financial responsibility by mail to the court. Upon receipt by the clerk of written evidence of financial responsibility in a form consistent with Section 16020, further proceedings on the notice to appear for the violation of subdivision (a) shall be dismissed.

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

(g) This section shall remain in effect only until January 1, 2000, or until the date determined by the director pursuant to paragraph (2) of subdivision (a) of Section 1680, whichever is later, and as of that date is repealed, unless a later enacted statute, which is enacted on or before January 1, 2000, deletes or extends that date.

SEC. 16.5. Section 16028 of the Vehicle Code is amended to read:

16028. (a) Upon demand of a peace officer pursuant to subdivision (b) or (c), every person who drives a motor vehicle upon a highway shall provide evidence of financial responsibility for the vehicle. However, a peace officer shall not stop a vehicle for the sole purpose of determining whether the vehicle is being driven in violation of this subdivision.

(b) Whenever a notice to appear is issued for any alleged violation of this code, except a violation specified in Chapter 9 (commencing with Section 22500) of Division 11 or any local ordinance adopted pursuant thereto, the cited driver shall furnish written evidence of financial responsibility upon request of the peace officer issuing the

citation. The peace officer shall request and write the driver's evidence of financial responsibility on the notice to appear, except where the peace officer is unable to write the driver's evidence of financial responsibility on the notice to appear due to an emergency that requires his or her presence elsewhere. If the cited driver fails to provide evidence of financial responsibility at the time the notice to appear is issued, the peace officer may issue the driver a notice to appear for violation of subdivision (a). The notice to appear for violation of subdivision (a) shall be written on the same citation form as the original violation.

(c) Whenever a peace officer, or a regularly employed and salaried employee of a city or county who has been trained as a traffic collision investigator, is summoned to the scene of an accident described in Section 16000, the driver of any motor vehicle that is in any manner involved in the accident shall furnish written evidence of financial responsibility upon the request of the peace officer or traffic collision investigator. If the driver fails to provide evidence of financial responsibility when requested, the peace officer may issue the driver a notice to appear for violation of this subdivision. A traffic collision investigator may cause a notice to appear to be issued for a violation of this subdivision, upon review of that citation by a peace officer.

(d) (1) If, at the time a notice to appear for a violation of subdivision (a) is issued, the person is driving a motor vehicle owned, operated, or leased by the driver's employer, and the vehicle is being driven with the permission of the employer, this section shall apply to the employer rather than the driver. In that case, a notice to appear shall be issued to the employer rather than the driver, and the driver may sign the notice on behalf of the employer.

(2) The driver shall notify the employer of the receipt of the notice issued pursuant to paragraph (1) not later than five days after receipt.

(e) A person issued a notice to appear for a violation of subdivision (a) may personally appear before the clerk of the court, as designated in the notice to appear, and provide written evidence of financial responsibility in a form consistent with Section 16020, showing that the driver was in compliance with that section at the time the notice to appear for violating subdivision (a) was issued. In lieu of a personal appearance, the person may submit written evidence of financial responsibility by mail to the court. Upon receipt by the clerk of written evidence of financial responsibility in a form consistent with Section 16020, further proceedings on the notice to appear for the violation of subdivision (a) shall be dismissed.

(f) This section shall remain in effect only until January 1, 2003, or until the date determined by the director pursuant to paragraph (2) of subdivision (a) of Section 1680, whichever is later, and as of that date is repealed, unless a later enacted statute, which is enacted on or before January 1, 2003, deletes or extends that date.

SEC. 17. Section 21718 is added to the Vehicle Code, to read:

21718. (a) No person shall stop, park, or leave standing any vehicle upon a freeway which has full control of access and no crossings at grade except:

(1) When necessary to avoid injury or damage to persons or property.

(2) When required by law or in obedience to a peace officer or official traffic control device.

(3) When any person is actually engaged in maintenance or construction on freeway property or any employee of a public agency is actually engaged in the performance of official duties.

(4) When any vehicle is so disabled that it is impossible to avoid temporarily stopping and another vehicle has been summoned to render assistance to the disabled vehicle or driver of the disabled vehicle. This paragraph applies when the vehicle summoned to render assistance is a vehicle owned by the donor of free emergency assistance that has been summoned by display upon or within a disabled vehicle of a placard or sign given to the driver of the disabled vehicle by the donor for the specific purpose of summoning assistance, other than towing service, from the donor.

(5) Where stopping, standing, or parking is specifically permitted. However, buses may not stop on freeways unless sidewalks are provided with shoulders of sufficient width to permit stopping without interfering with the normal movement of traffic and without the possibility of crossing over fast lanes to reach the bus stop.

(6) Where necessary for any person to report a traffic accident or other situation or incident to a peace officer or any person specified in paragraph (3), either directly or by means of an emergency telephone or similar device.

(7) When necessary for the purpose of rapid removal of impediments to traffic by the owner or operator of a tow truck operating under an agreement with the Department of the California Highway Patrol.

(b) A conviction of a violation of this section is a conviction involving the safe operation of a motor vehicle upon the highway if a notice to appear for the violation was issued by a peace officer described in Section 830.1 or 830.2 of the Penal Code.

SEC. 18. Section 22507.8 of the Vehicle Code is amended to read:

22507.8. (a) It is unlawful for any person to park or leave standing any vehicle in a stall or space designated for disabled persons and disabled veterans pursuant to Section 22511.7 or 22511.8, unless the vehicle displays either a special identification license plate issued pursuant to Section 5007 or a distinguishing placard issued pursuant to Section 22511.55 or 22511.59.

(b) It is unlawful for any person to obstruct, block, or otherwise bar access to those parking stalls or spaces except as provided in subdivision (a).

(c) It is unlawful for any person to park or leave standing any vehicle, including a vehicle displaying a special identification license plate issued pursuant to Section 5007 or a distinguishing placard issued pursuant to Section 22511.55 or 22511.59, in either of the following places:

(1) On the lines marking the boundaries of a parking stall or space designated for disabled persons or disabled veterans.

(2) In any area of the pavement adjacent to a parking stall or space designated for disabled persons or disabled veterans that is marked by crosshatched lines and is thereby designated, pursuant to any local ordinance, for the loading and unloading of vehicles parked in the stall or space.

(d) Subdivisions (a), (b), and (c) apply to all offstreet parking facilities owned or operated by the state, and to all offstreet parking facilities owned or operated by a local authority. Subdivisions (a), (b), and (c) also apply to any privately owned and maintained offstreet parking facility.

SEC. 19. Section 22520 of the Vehicle Code is repealed.

SEC. 20. Section 22651.5 of the Vehicle Code is amended to read:

22651.5. (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 or regulations, may, upon the complaint of any person, remove a vehicle parked within 500 feet of any occupied building of a school, community college, or university during normal hours of operation, or a vehicle parked within a residence or business district, from a highway or from public or private property, if an alarm device or horn has been activated within the vehicle, whether continuously activated or intermittently and repeatedly activated, the peace officer or designated employee is unable to locate the owner of the vehicle within 20 minutes from the time of arrival at the vehicle's location, and the alarm device or horn has not been completely silenced prior to removal.

(b) Upon removal of a vehicle from a highway or from public or private property pursuant to this section, the peace officer or designated employee ordering the removal shall immediately report the removal and the location to which the vehicle is removed to the Stolen Vehicle System of the Department of Justice.

SEC. 21. Section 22655 of the Vehicle Code is amended to read:

22655. (a) When any peace officer, as that term is 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 statutes and regulations, has reasonable cause to believe that a motor vehicle on a highway or on private property open to the general public onto which the public is explicitly or implicitly invited, located within the territorial limits in which the officer is empowered to act, has been involved in a hit-and-run accident, and the operator of the vehicle has

failed to stop and comply with Sections 20002 to 20006, inclusive, the officer may remove the vehicle from the highway or from public or private property for the purpose of inspection.

(b) Unless sooner released, the vehicle shall be released upon the expiration of 48 hours after the removal from the highway or private property upon demand of the owner. When determining the 48-hour period, weekends, and holidays shall not be included.

(c) Notwithstanding subdivision (b), when a motor vehicle to be inspected pursuant to subdivision (a) is a commercial vehicle, any cargo within the vehicle may be removed or transferred to another vehicle.

This section shall not be construed to authorize the removal of any vehicle from an enclosed structure on private property that is not open to the general public.

SEC. 22. Section 24953 of the Vehicle Code is amended to read:

24953. (a) Any turn signal system used to give a signal of intention to turn right or left shall project a flashing white or amber light visible to the front and a flashing red or amber light visible to the rear.

(b) Side-mounted turn signal lamps projecting a flashing amber light to either side may be used to supplement the front and rear turn signals. Side-mounted turn signal lamps mounted to the rear of the center of the vehicle may project a flashing red light no part of which shall be visible from the front.

(c) In addition to any required turn signal lamps, any vehicle may be equipped with supplemental rear turn signal lamps mounted to the rear of the rearmost portion of the driver's seat in its rearmost position.

(d) In addition to any required or authorized turn signal lamps, any vehicle may be equipped with supplemental rear turn signal lamps that are mounted on, or are an integral portion of, the outside rearview mirrors, so long as the lamps flash simultaneously with the rear turn signal lamps, the light emitted from the lamps is projected only to the rear of the vehicle and is not visible to the driver under normal operating conditions, except for a visual indicator designed to allow monitoring of lamp operation, and the lamps do not project a glaring light.

SEC. 23. Section 25251 of the Vehicle Code is amended to read:

25251. (a) Flashing lights are permitted on vehicles as follows:

(1) To indicate an intention to turn or move to the right or left upon a roadway, turn signal lamps and turn signal exterior pilot indicator lamps and side lamps permitted under Section 25106 may be flashed on the side of a vehicle toward which the turn or movement is to be made.

(2) When disabled or parked off the roadway but within 10 feet of the roadway, or when approaching, stopped at, or departing from, a railroad grade crossing, turn signal lamps may be flashed as warning lights if the front turn signal lamps at each side are being flashed

simultaneously and the rear turn signal lamps at each side are being flashed simultaneously.

(3) To warn other motorists of accidents or hazards on a roadway, turn signal lamps may be flashed as warning lights while the vehicle is approaching, overtaking, or passing the accident or hazard on the roadway if the front turn signal lamps at each side are being flashed simultaneously and the rear turn signal lamps at each side are being flashed simultaneously.

(4) For use on authorized emergency vehicles.

(5) To warn other motorists of a funeral procession, turn signal lamps may be flashed as warning lights on all vehicles actually engaged in a funeral procession, if the front turn signal lamps at each side are being flashed simultaneously and the rear turn signal lamps at each side are being flashed simultaneously.

(b) Turn signal lamps shall be flashed as warning lights whenever a vehicle is disabled upon the roadway and the vehicle is equipped with a device to automatically activate the front turn signal lamps at each side to flash simultaneously and the rear turn signal lamps at each side to flash simultaneously, if the device and the turn signal lamps were not rendered inoperative by the event which caused the vehicle to be disabled.

(c) Side lamps permitted under Section 25106 and used in conjunction with turn signal lamps may be flashed with the turn signal lamps as part of the warning light system, as provided in paragraphs (2) and (3) of subdivision (a).

(d) Required or permitted lamps on a trailer or semitrailer may flash when the trailer or semitrailer has broken away from the towing vehicle and the connection between the vehicles is broken.

(e) Hazard warning lights, as permitted by paragraphs (2) and (3) of subdivision (a) may be flashed in a repeating series of short and long flashes when the driver is in need of help.

SEC. 24. Section 25258 of the Vehicle Code is amended to read:

25258. (a) An authorized emergency vehicle operating under the conditions specified in Section 21055 may display a flashing white light from a gaseous discharge lamp designed and used for the purpose of controlling official traffic control signals.

(b) An authorized emergency vehicle used by a peace officer, as defined in Section 830.1 of, subdivision (a), (b), (c), (d), (e), (f), (g), or (i) of Section 830.2 of, subdivision (b) or (d) of Section 830.31 of, subdivision (a) or (b) of Section 830.32 of, Section 830.33 of, subdivision (a) of Section 830.36 of, subdivision (a) of Section 830.4 of, or Section 830.6 of, the Penal Code, in the performance of the peace officer's duties, may, in addition, display a steady or flashing blue warning light visible from the front, sides, or rear of the vehicle.

SEC. 25. Section 25259 of the Vehicle Code is amended to read:

25259. (a) Any authorized emergency vehicle may display flashing amber warning lights to the front, sides, or rear.

(b) A vehicle operated by a police or traffic officer while in the actual performance of his or her duties may display steady burning or flashing white lights to either side mounted above the roofline of the vehicle.

(c) Any authorized emergency vehicle may display not more than two flashing white warning lights to the front mounted above the roofline of the vehicle and not more than two flashing white warning lights to the front mounted below the roofline of the vehicle. These lamps may be in addition to the flashing headlamps permitted under Section 25252.5.

SEC. 26. Section 26101 of the Vehicle Code is amended to read:

26101. No person shall sell or offer for sale for use upon or as part of the equipment of a vehicle, nor shall any person use upon a vehicle, any device that is intended to modify the original design or performance of any lighting equipment, safety glazing material, or other device, unless the modifying device meets the provisions of Section 26104. This section does not apply to a taillamp or stop lamp in use on or prior to December 1, 1935, or to lamps installed on authorized emergency vehicles.

SEC. 27. Section 27000 of the Vehicle Code is amended to read:

27000. (a) Every motor vehicle, when operated upon a highway, shall be equipped with a horn in good working order and capable of emitting sound audible under normal conditions from a distance of not less than 200 feet, but no horn shall emit an unreasonably loud or harsh sound. An authorized emergency vehicle may be equipped with, and use in conjunction with the siren on that vehicle, an air horn which emits sounds that do not comply with the requirements of this section.

(b) Every refuse or garbage truck purchased after September 1, 1983, shall be equipped with an automatic backup audible alarm which sounds on backing more than 36 inches and which is capable of emitting sound audible under normal conditions from a distance of not less than 100 feet or shall be equipped with an automatic backup device which is in good working order, located at the rear of the vehicle and which immediately applies the service brake of the vehicle on contact by the vehicle with any obstruction to the rear. The backup device or alarm shall also be capable of operating automatically when the vehicle is in neutral or a forward gear but rolls backward.

(c) At the first scheduled overhaul for any refuse or garbage truck, the operator shall consider equipping the refuse or garbage truck not equipped in accordance with the requirements of subdivision (b), with the alarm or device required under subdivision (b).

SEC. 28. Section 34001 of the Vehicle Code is amended to read:

34001. The provisions of this division refer to vehicles having a cargo tank and to hazardous waste transport vehicles and containers, as defined in Section 25167.4 of the Health and Safety Code, that are operating on highways within this state.

SEC. 29. Section 34060 of the Vehicle Code is amended to read:

34060. The commissioner shall provide for the establishment, operation, and enforcement of random on- and off-highway inspections of cargo tanks and hazardous waste transport vehicles and containers. The commissioner shall also provide training in the inspection of cargo tanks and hazardous waste transport vehicles and containers to employees of the department whose primary duties include the enforcement of laws and regulations relating to commercial vehicles and who, thereafter, are required to perform random inspections of cargo tanks and hazardous waste transport vehicles and containers to determine whether or not the cargo tanks and hazardous waste transport vehicles and containers are designed, constructed, and maintained in accordance with the regulations adopted by the commissioner pursuant to this code and Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code.

SEC. 30. Section 34500.5 is added to the Vehicle Code, to read:

34500.5. For purposes of this division, the term "commercial motor vehicle" has the same meaning as defined in subdivision (b) of Section 15210.

SEC. 31. Section 34622 of the Vehicle Code is amended to read:

34622. This chapter does not apply to any of the following:

(a) Vehicles that are exempt from vehicle registration fees.

(b) The transportation of office, store, and institution furniture and fixtures by a household goods carrier, as defined in Section 5109 of the Public Utilities Code.

SEC. 32. Section 40000.16 of the Vehicle Code is amended to read:

40000.16. A second or subsequent violation of Section 23114, relating to preventing the escape of materials from vehicles, occurring within two years of a prior violation of that section is a misdemeanor, and not an infraction.

SEC. 33. Section 16.5 of this bill incorporates amendments to Section 16028 of the Vehicle Code proposed by both this bill and AB 651. 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 16028 of the Vehicle Code, and (3) this bill is enacted after AB 651, in which case Section 16 of this bill shall not become operative.

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## CHAPTER 946

An act to amend Sections 53340, 53356.1, 53356.5, and 53359.5 of, and to add Sections 53331.5, 53344.1, 53344.2, and 53356.8 to, the Government Code, to amend Sections 8830 and 8832 of the Streets and Highways Code, and to amend Sections 3712, 4186, 4218, and

4986.3 of the Revenue and Taxation Code, relating to local government bonds.

[Approved by Governor October 12, 1997. Filed with
Secretary of State October 12, 1997.]

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

SECTION 1. Section 53331.5 is added to the Government Code, to read:

53331.5. In addition to the other changes that may be made pursuant to this article, the legislative body may use the procedures of this article to gain authorization to accept bonds tendered in payment of special taxes or at a foreclosure sale pursuant to Sections 53344.1 and 53356.8.

SEC. 2. Section 53340 of the Government Code is amended to read:

53340. (a) After a community facilities district has been created and authorized to levy specified special taxes pursuant to Article 2 (commencing with Section 53318), Article 3 (commencing with Section 53330), or Article 3.5 (commencing with Section 53339), the legislative body may, by ordinance, levy the special taxes at the rate and apportion them in the manner specified in the resolution adopted pursuant to Article 2 (commencing with Section 53318), Article 3 (commencing with Section 53330), or Article 3.5 (commencing with Section 53339).

(b) The legislative body may provide, by resolution, for the levy of the special tax in the current tax year or future tax years at the same rate or at a lower rate than the rate provided by ordinance, if the resolution is adopted and a certified list of all parcels subject to the special tax levy including the amount of the tax to be levied on each parcel for the applicable tax year, is filed by the clerk or other official designated by the legislative body with the county auditor on or before the 10th day of August of that tax year. The clerk or other official designated by the legislative body may file the certified list after the 10th of August but not later than the 21st of August if the clerk or other official obtains prior written consent of the county auditor.

(c) Properties or entities of the state, federal, or other local governments shall, except as otherwise provided in Section 53317.3, be exempt from the special tax. No other properties or entities are exempt from the special tax unless the properties or entities are expressly exempted in the resolution of formation to establish a district adopted pursuant to Section 53325.1 or in a resolution of consideration to levy a new special tax or special taxes or to alter the rate or method of apportionment of an existing special tax as provided in Section 53334.

(d) The proceeds of any special tax may only be used to pay, in whole or part, the cost of providing public facilities, services, and incidental expenses pursuant to this chapter.

(e) The special tax shall be collected in the same manner as ordinary ad valorem property taxes are collected and shall be subject to the same penalties and the same procedure, sale, and lien priority in case of delinquency as is provided for ad valorem taxes, unless another procedure has been authorized in the resolution of formation establishing the district and adopted by the legislative body.

(f) (1) Notwithstanding subdivision (e), the legislative body of the district may waive delinquency penalties and redemption penalties if it makes all of the following determinations:

(A) The waivers shall apply only to parcels delinquent at the time of the determination.

(B) The waivers shall be available only with respect to parcels for which all past due and currently due special taxes and all other costs due are paid in full within a limited period of time specified in the determination.

(C) The waivers shall be available only with respect to parcels sold or otherwise transferred to new owners unrelated to the owner responsible for the delinquency.

(D) The waivers are in the best interest of the debtholders.

(2) The charges with penalties to be waived shall be removed from the tax roll pursuant to Section 53356.2 and local administrative procedures, and any distributions made to the district prior to collection pursuant to Chapter 3 (commencing with Section 4701) of Part 8 of Division 1 of the Revenue and Taxation Code shall be repaid by the district prior to granting the waiver.

(g) The tax collector may collect the special tax at intervals as specified in the resolution of formation, including intervals different from the intervals at which the ordinary ad valorem property taxes are collected. The tax collector may deduct the reasonable administrative costs incurred in collecting the special tax.

(h) All special taxes levied by a community facilities district shall be secured by the lien imposed pursuant to Section 3115.5 of the Streets and Highways Code. This lien shall be a continuing lien and shall secure each levy of special taxes. The lien of the special tax shall continue in force and effect until the special tax obligation is prepaid, permanently satisfied, and canceled in accordance with Section 53344 or until the special tax ceases to be levied by the legislative body in the manner provided in Section 53330.5. If any portion of a parcel is encumbered by a lien pursuant to this chapter, the entirety of the parcel shall be encumbered by that lien.

SEC. 3. Section 53344.1 is added to the Government Code, to read:

53344.1. (a) The legislative body may provide in the resolution of intention or the resolution of consideration, and in documents setting forth the rights of the debtholders that it shall reserve to itself,

the right and authority to allow any interested owner of property within the district, subject to the provisions of this section and to those conditions as it may impose, and any applicable prepayment penalties as prescribed in the bond indenture or comparable instrument or document, to tender to the district treasurer in full payment or part payment of any installment of the special taxes or the interest or penalties thereon which may be due or delinquent, but for which a bill has been received, any bond or other obligation secured thereby, the bond or other obligation to be taken at par and credit to be given for the accrued interest shown thereby computed to the date of tender. The district treasurer shall thereupon cancel the bond debt and shall cause proper credit therefor to be entered on the records of the district and in the office of the auditor and tax collector. If the legislative body agrees to allow bond tenders pursuant to this section or to Section 53356.8, the legislative body may, at its discretion, agree to distribute or direct its trustee or other agent to distribute by any means an offer to purchase bonds or other related inquiry to the holders of the bonds of the district, at the expense of the person requesting the mailing. Neither the legislative body, nor any of its officers, agents, or trustees shall be liable in any way for that distribution.

(b) The provisions of this subdivision apply to any tender of bonds pursuant to this section by an owner of property within the district who is delinquent in paying special taxes levied by this district when due. Bonds may be tendered pursuant to this subdivision only after all of the following conditions have been satisfied:

(1) The delinquent lot or parcel has been offered for sale as a result of a foreclosure judgment and the minimum price required to be paid for the lot or parcel was not received.

(2) The bonds to be tendered to the district were obtained by the property owner only after their prior owner was presented with a tender offer or solicitation as defined in this subdivision.

(A) For purposes of this subdivision, a "tender offer" or "solicitation" is a solicitation by any person or that person's agent by offering circular, memoranda, tender, or solicitation, or any other document or written, oral, or electronic communication for the purchase of the bonds from their then current owner. A person includes a natural person, corporation, company, partnership, limited liability company, limited liability partnership, association, or any other entity and a "tendering party" includes any person making a tender offer for bonds.

(B) Any tender offer or solicitation shall include all material information as required under federal and state securities laws and shall also include the following information, to the extent applicable:

(i) The name of the tendering party.

(ii) An individual who can be contacted to provide further information with respect to the tender.

(iii) The current holdings of bonds of the district by the tendering party and its affiliates.

(iv) The total face amount of the bonds being solicited.

(v) The price or method of determining the price per one thousand dollars ($1,000) in bonds being offered by the tendering party.

(vi) Whether the tendering party or any person affiliated with or related to the tendering party, or any employee, agent, or representative of the tendering party, is a property owner within the district that issued the bonds.

(vii) Whether the present intentions of the tendering party are to use the bonds for payment of special taxes or the purchase of property at a foreclosure sale pursuant to this section or Section 53356.8. This statement of present intentions shall not be construed to be binding on the tendering party.

(viii) The status of the bond redemption fund, construction fund, reserve fund, and any other funds of the district, and the special tax delinquency rate of the district, all of which data shall be the most recent available from the district and, in any event, shall apply to the state of the funds after the most recent payment of principal and interest on the bonds. The district shall provide the necessary data to the property owner within 10 days of receiving a written request and may charge a reasonable fee not to exceed its actual costs of providing the data. The district shall simultaneously release the same information to the general public. The property shall also provide the percentage of the delinquency attributable to the tendering party or any person affiliated with or related to the tendering party, or any employee, agent, or representative of the tendering party, for each of the three most recent fiscal years.

(ix) If the tendering party owns or leases property in the district that issued the bonds, the development plans for that property and an update on the current status of development of that property and of any zoning, planning, or other permits or approvals needed for development of the property to proceed.

(x) Any other material information available to the tendering party and not generally available to the public that would significantly affect the market value of the bonds of the district.

(C) The tendering party shall notify the legislative body of his or her intent to make a tender offer or solicitation at least simultaneously with making any offer or solicitation.

(D) The tendering party shall provide a copy of the solicitation to the Department of Corporations prior to five working days after notifying the legislative body pursuant to subparagraph (C).

(3) The tendering property owner provides the legislative body with a negative assurance from counsel representing the property owner that no misleading or other information has come to the opining party's attention after reasonable investigation, that would

lead the party providing the negative assurance to believe that the tender was in violation of federal or state securities laws.

(4) The tendering property owner delivers to the legislative body of the district that issued the bonds subject to the tender, a certificate to the effect that the tender information is accurate in all material respects and does not omit to state a material fact necessary in order to make the statements included in the tender information not misleading, except that the certificate need not provide any assurances as to the accuracy of the information as to the bond fund balances and tax payment information provided by the district.

(c) The provisions of this subdivision apply to any tender of bonds pursuant to this section by any owner of property within the district who is not delinquent in paying special taxes on any property within the district. A person subject to this subdivision shall be deemed to be a person whose relationship to the issuer may give him or her access, directly or indirectly, to material information about the issuer not generally available to the public, and the provisions of Section 25402 of the Corporations Code apply to any purchase or sale of securities by that person in connection with the tender transaction. For purposes of this subdivision, the "issuer" includes the district, the local agency that created the district, and any owner of property within the district. At any time prior to tendering bonds to the district pursuant to this section, any person subject to this subdivision shall deliver to the legislative body of the district a certificate that he or she has complied with this subdivision and applicable federal and state securities laws.

SEC. 4. Section 53344.2 is added to the Government Code, to read:

53344.2. (a) Each legislative body of a district may, subject to the provisions set forth below, declare a "special tax penalties amnesty program" on or before December 31, 1998.

(b) A special tax penalties amnesty program may be declared only after the legislative body makes the following findings at a public hearing for which notice has been provided pursuant to Section 6061 at least 20 days prior to the date of the hearing:

(1) That the total dollar amount of special tax delinquencies, not including delinquency penalties and redemption penalties, in the district has been equal to or greater than 10 percent of the total special tax levy in each of the two most recent tax years.

(2) At least one parcel within the district has been offered for sale at a legally noticed foreclosure proceeding conducted in accordance with this article and no minimum bids were received.

(3) The special tax penalties amnesty program may result in special taxes being paid for the benefit of the debtholders prior to when these taxes are likely to be recovered using available remedies.

(c) In addition to the notice required pursuant to subdivision (b), the legislative body shall provide notice of the hearing to the

underwriter or underwriters of any bonds of the district by first-class mail at least 20 days before the date of the hearing.

(d) The special tax penalties amnesty program shall begin and end on a date certain and shall not extend for a period of more than 60 days.

(e) Notice of the special tax penalties amnesty program shall be published in a newspaper of general circulation published in the area of the district at least 30 days prior to the special tax penalties amnesty deadline.

(f) The notice shall be mailed to all property owners at their address as it appears on the last secured roll at least 30 days prior to the beginning of the special tax penalties amnesty period.

(g) The notice required in subdivisions (e) and (f) above shall contain at a minimum the following:

(1) The name and telephone number of the person representing the district who may be contacted to determine the amount due on any parcel if paid in accordance with the program.

(2) The method and place of payment.

(3) The deadline for the program and for making the payment.

(4) A statement in bold print that this program expires on the payment deadline date and there will be no additional programs absent the authorization of the Legislature and the local legislative body.

(5) The percentage or maximum amount of penalties and interest that may be waived on any parcel.

(h) The special tax penalties amnesty program shall provide that upon payment of (1) all past due special taxes, (2) administrative costs including costs to remove the special taxes from the tax rolls, regular administrative costs, and fees associated with establishing and administering the special tax penalties amnesty program, and (3) fees and expenses of any foreclosure and sale proceedings, including the fees and expenses of foreclosure counsel, by the stated deadline the district shall waive some or all of the delinquency penalties and redemption penalties incurred with respect to those special taxes. The percentage or maximum amount of penalties and interest waived shall be in the legislative body's discretion. The charges with penalties to be waived shall be removed from the tax roll pursuant to Section 53356.2 and local administrative procedures, and any distributions made to the district prior to collection pursuant to Chapter 3 (commencing with Section 4701) of Part 8 of Division 1 of the Revenue and Taxation Code shall be repaid by the district prior to granting the waiver.

SEC. 4.5. Section 53356.1 of the Government Code is amended to read:

53356.1. (a) As a cumulative remedy, if debt is outstanding, the legislative body may, not later than four years after the due date of the last installment of principal thereof, order that any delinquent special taxes levied in whole or in part for payment of the debt,

together with any penalties, interest, and costs, be collected by an action brought in the superior court to foreclose the lien of special tax.

(b) The legislative body may, by resolution, adopted prior to the issuance of debt under this chapter covenant for the benefit of debt holders to commence and diligently pursue any foreclosure action regarding delinquent installments of any amount levied as a special tax for the payment of interest or principal of any bonds that are issued, and, at any time may assign the causes of action arising from the foreclosure to a trustee or joint powers authority to do so on behalf of the debtholders. The resolution may specify a deadline for commencement of the foreclosure action and any other terms and conditions the legislative body determines reasonable regarding the foreclosure action.

(c) Except as provided in Section 53356.6, all special taxes, interest, penalties, costs, fees, and other charges that are delinquent at the time of the ordering of a foreclosure action shall be collected in the action. In the event that a lot or parcel of property has not been sold pursuant to judgment in the foreclosure action at the time that subsequent special taxes become delinquent, the court may include the subsequent special taxes, interest, penalties, costs, fees, and other charges in the judgment or modified judgment.

(d) For purposes of financing delinquent special taxes pursuant to Section 26220 of the Government Code, the legislative body may act as if it were a board of supervisors.

(e) Notwithstanding any other provision of this chapter, no trustee or joint powers authority shall be obligated to accept the tender of bonds in satisfaction of any obligation arising from a delinquent special tax, although either may do so if authorized to do so by the legislative body.

(f) An action to determine the validity of any bonds issued, any joint powers agreement entered into, and any related agreements entered into, by a joint powers agency acting pursuant to this section may be brought by the joint powers agency pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure. Any appeal from a judgment in the action shall be commenced within 30 days after entry of judgment.

SEC. 5. Section 53356.5 of the Government Code is amended to read:

53356.5. (a) Any judgment shall decree the amount of the continuing lien against each parcel to be foreclosed, and shall order the parcel to be sold on execution as in other cases of the sale of real property by process of the court except:

(1) Notwithstanding Section 701.545 of the Code of Civil Procedure, notice of sale of any lot or parcel included in the judgment may be given pursuant to Section 701.540 of the Code of Civil Procedure any time after the expiration of 20 days after the date notice of levy on the interest in real property was served on the judgment debtor or debtors, provided that the lot or parcel to be sold

is not a dwelling for not more than four families and provided that all parties whose liens are extinguished by the foreclosure judgment were either defendants in the foreclosure action or, for those parties who acquired an interest in a lien on the parcel after the recording of notice of the pending foreclosure action, received constructive notice of the action.

(2) Whenever notice of sale may be given after the expiration of 20 days after the date notice of levy was served as provided in paragraph (1), the 30-day time period contained in subdivision (h) of Section 701.540 of the Code of Civil Procedure shall be reduced to 10 days.

(3) Upon proof that the lot or parcel to be sold is not a dwelling for not more than four families, and upon determining that all parties whose liens are extinguished by the foreclosure judgment were either defendants in the foreclosure action or, for those parties who acquired an interest in a lien on the parcel after the recording of notice of the pending foreclosure action, received constructive notice of the action, pursuant to Section 716.020 of the Code of Civil Procedure, the court shall order that paragraphs (1) and (2) apply to any judgment previously entered.

(4) The minimum bid amount provided in Section 53356.6 shall apply instead of subdivision (a) of Section 701.620 of the Code of Civil Procedure.

(5) The local agency may bid at the price provided in Section 53356.6 by giving the levying officer a written receipt crediting all or part of the amount required to satisfy the judgment. If the local agency becomes the purchaser pursuant to bid, the local agency shall pay the amount of its credit bid into the redemption fund within 24 months of the date of the foreclosure sale.

(6) Notwithstanding subdivision (c) of Section 701.620 of the Code of Civil Procedure, if the minimum price required to be paid for a lot or parcel pursuant to Section 53356.6 is not obtained at a foreclosure sale, upon written request of the local agency, the levying officer shall retain the writ of sale and, provided that the writ of sale has not been returned to the court pursuant to paragraph (1) of subdivision (a) of Section 699.560 of the Code of Civil Procedure, give notice of sale pursuant to Section 701.540 of the Code of Civil Procedure without relevying on the property.

(7) As provided elsewhere in this chapter.

(b) The judgment amount shall include reasonable attorneys' fees to be fixed by the court, together with interest, penalties, and other authorized charges and costs (all calculated up to date of judgment).

(c) The foreclosure action shall be governed and regulated by the provisions of this chapter, and also where not in conflict with this chapter, by other provisions of law generally applicable to foreclosure actions.

SEC. 6. Section 53356.8 is added to the Government Code, to read:

53356.8. Provided the legislative body permits bonds or debt to be tendered for special taxes and the penalties and interest thereon pursuant to Section 53344.1, if the highest bid for a lot or parcel sold pursuant to a judgment of foreclosure and order of sale exceeds five thousand dollars ($5,000) and the highest bidder elects to treat the sale as a credit transaction pursuant to subdivision (c) of Section 701.590 of the Code of Civil Procedure, the balance due as provided in that section may be paid in full or in part by tender of bonds or debt, provided, however, that bonds or debt may not be tendered for costs of foreclosure, including attorney's fees, and administrative charges incurred by the local agency with respect to removing the special taxes from the rolls of the treasurer or tax collector, or other administrative charges.

(a) Tender of bonds or debt shall be made to the local agency within seven days of the date of the sale. The local agency shall be charged with authenticating the tender and shall, within 10 days of the date of the sale, submit a written receipt to the levying officer who conducted the sale for the amount of the bond or debt tender accepted by it.

(b) Tender of cash or certified check or cashier's check shall be made to the levying officer within 10 days of the date of the sale.

(c) The levying officer shall total the cash, certified checks and cashier's checks, and any agency written receipts for bonds or debt to determine if the amount of the bid, plus accruing costs and interests, has been paid. In no event shall the tendering party be entitled to receive cash or other compensation in return for all or any part of the value of a tendered bond or bonds, except for recognition of their value in satisfying the amount bid.

(d) The tendering party shall comply with the provisions of Section 53344.1, as applicable as if they were fully set out in this section.

SEC. 7. Section 53359.5 of the Government Code is amended to read:

53359.5. (a) The legislative body shall, no later than 30 days prior to the sale of any bonds pursuant to this article, give written notice of the proposed sale to the California Debt and Investment Advisory Commission by mail, postage prepaid, as required by Chapter 12 (commencing with Section 8855) of Division 1 of Title 2.

(b) On and after January 1, 1993, each year after the sale of any bonds, including refunding bonds, pursuant to this article, and until the final maturity of the bonds, the legislative body shall, not later than October 30 of each year, supply the following information to the California Debt and Investment Advisory Commission by mail, postage prepaid:

(1) The principal amount of bonds outstanding.

(2) The balance in the bond reserve fund.

(3) The balance in the capitalized interest fund, if any.

(4) The number of parcels which are delinquent with respect to their special tax payments, the amount that each parcel is delinquent, the length of time that each has been delinquent, and when foreclosure was commenced for each delinquent parcel.

(5) The balance in any construction funds.

(6) The assessed value of all parcels subject to special tax to repay the bonds as shown on the most recent equalized roll.

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

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

(2) Funds are withdrawn from a reserve fund to pay principal and interest on the bonds beyond levels set by the California Debt and Investment Advisory Commission.

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

SEC. 8. Section 8830 of the Streets and Highways Code is amended to read:

8830. (a) As a cumulative remedy, if any assessment or reassessment or installment thereof, or of any interest thereon, together with any penalties, costs, fees, and other charges accruing under applicable taxation provisions are not paid when due, the legislative body may order that the same be collected by an action brought in the superior court to foreclose the lien thereof as provided by this part.

(b) The legislative body may, by resolution adopted prior to issuance of bonds under this division, covenant for the benefit of bondholders to commence and diligently prosecute any foreclosure action regarding delinquent installments of any assessments or reassessments which secure the bonds that are to be issued, and, at any time, may assign the causes of action arising from the foreclosure to a trustee to do so on behalf of the bondholders. The resolution may specify a deadline for commencement of the foreclosure action and other terms and conditions as the legislative body may determine to be reasonable regarding the foreclosure action.

(c) Except as provided in Section 8836, all installments, interest, penalties, costs, fees, and other charges that are delinquent at the time of the ordering of a foreclosure action shall be collected in the action. If a lot or parcel of property has not been sold pursuant to judgment in the foreclosure action at the time that subsequent installments and interest become delinquent, the court may include the subsequent installments, interest, penalties, costs, fees, and other charges in the judgment or modified judgment.

(d) For purposes of financing delinquent assessments pursuant to Section 26220, the legislative body may act as if it were a board of supervisors.

(e) Notwithstanding any other provision of this chapter, no trustee or joint powers authority shall be obligated to accept the tender of bonds in satisfaction of any obligation arising from a delinquent assessment, although either may do so if authorized to do so by the legislative body.

(f) An action to determine the validity of any bonds issued, any joint powers agreement entered into, and any related agreements entered into, by a joint powers agency acting pursuant to this section may be brought by the joint powers agency pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure. Any appeal from a judgment in the action shall be commenced within 30 days after entry of judgment.

SEC. 9. Section 8832 of the Streets and Highways Code is amended to read:

8832. (a) The court shall have the power to adjudge and decree a lien against the lot or parcel of property covered by the assessment or reassessment for the amount of the judgment and to order the premises to be sold on execution as in other cases of the sale of real property by the process of the court except:

(1) Notwithstanding Section 701.545 of the Code of Civil Procedure, notice of sale of any lot or parcel included in the judgment may be given pursuant to Section 701.540 of the Code of Civil Procedure any time after the expiration of 20 days after the date notice of levy on the interest in real property was served on the judgment debtor or debtors, provided that the lot or parcel to be sold is not a dwelling for not more than four families.

(2) Whenever notice of sale may be given after the expiration of 20 days after the date notice of levy was served as provided in paragraph (1), the 30-day time period contained in subdivision (h) of Section 701.540 of the Code of Civil Procedure shall be reduced to 10 days.

(3) Upon proof that the lot or parcel to be sold is not a dwelling for not more than four families, pursuant to Section 716.020 of the Code of Civil Procedure, the court shall order that paragraphs (1) and (2) apply to any judgment previously entered.

(4) Subdivision (b) of this section shall apply instead of subdivision (a) of Section 701.620 of the Code of Civil Procedure.

(5) Notwithstanding subdivision (c) of Section 701.620 of the Code of Civil Procedure, if the minimum price required to be paid for a lot or parcel pursuant to subdivision (b) is not obtained at a foreclosure sale, upon written request of the city, the levying officer shall retain the writ of sale and, provided that the writ of sale has not been returned to the court pursuant to paragraph (1) of subdivision (a) of Section 699.560 of the Code of Civil Procedure, give notice of sale

pursuant to Section 701.540 of the Code of Civil Procedure without relevying on the property.

(6) As provided elsewhere in this division.

(b) Except as provided in Section 8836, the lot or parcel may not be sold unless the amount to be paid pursuant to the bid equals or exceeds the sum of all of the following amounts:

(1) The amount of the judgment with costs and interest thereon.

(2) Costs and interest on the judgment accruing after issuance of the writ pursuant to which the sale is conducted.

(3) The levying officer's costs.

(4) Any other amounts which are required by law to be bid in order that the lot or parcel may be sold.

(c) The city may bid at the price provided for by subdivision (b) by giving the levying officer a written receipt crediting all or part of the amount required to satisfy the judgment, except that the city shall pay all of the following amounts in cash or by certified or cashier's check:

(1) The levying officer's costs remaining unsatisfied.

(2) The amount of any preferred labor claims.

(3) Exempt proceeds.

(4) Any other claim that is required by law to be satisfied.

(d) If the city becomes the purchaser pursuant to bid as provided for by subdivision (c), the city shall pay the amount that is required to satisfy the judgment into the redemption fund within 24 months of the date of the foreclosure sale. From the amount that the city is required to pay into the redemption fund, the city shall reimburse the special reserve fund, if any, the amount, if any, of funds advanced from the special reserve fund to the redemption fund to cover delinquent installments of the assessment or reassessment and interest with respect to the lot or parcel of property which is sold. To the extent that the city has advanced funds other than, or in addition to, funds from a special reserve fund and the funds are included in the judgment, the obligation of the city to pay into the redemption fund is reduced by a corresponding amount.

(e) Notwithstanding subdivision (d), the city is not required to pay into the redemption fund any amount that exceeds in the aggregate the sum of all of the following:

(1) The amount required to bring current delinquent installments of the assessment or reassessment and interest with respect to which the lot or parcel of property is sold.

(2) Simple interest on all the amounts from the dates of delinquencies until the date of sale, at the rate or rates of the bonds.

(f) If the lot or parcel of property is sold at the execution sale to a purchaser other than the city, the city shall pay the sale proceeds that it receives into the redemption fund. From the amount that the city is required to pay into the redemption fund, the city shall reimburse the special reserve fund, if any, the amount, if any, of funds advanced from the special reserve fund to the redemption fund to

cover delinquent installments of the assessment or reassessment and interest with respect to the lot or parcel of property which is sold. If the special reserve fund, if any, is thereby reimbursed, the city may reimburse other funds advanced by the city to cover delinquent installments and interest, and may pay interest and penalties, costs, fees, and other charges, to the extent that they are included in the sale proceeds received.

(g) Notwithstanding subdivision (f), attorney fees and costs awarded by the judgment and postjudgment interest are not required to be paid into the redemption fund.

(h) The foreclosure action shall be governed and regulated by this division, and where not in conflict with this division, by the applicable laws of this state.

SEC. 10. Section 3712 of the Revenue and Taxation Code is amended to read:

3712. The deed conveys title to the purchaser free of all encumbrances of any kind existing before the sale, except:

(a) Any lien for installments of taxes and special assessments, which installments will become payable upon the secured roll after the time of the sale.

(b) The lien for taxes or assessments or other rights of any taxing agency which does not consent to the sale under this chapter.

(c) Liens for special assessments levied upon the property conveyed which were, at the time of the sale under this chapter, not included in the amount necessary to redeem the tax-defaulted property, and, where a taxing agency which collects its own taxes has consented to the sale under this chapter, not included in the amount required to redeem from sale to the taxing agency.

(d) Easements constituting servitudes upon or burdens to the property; water rights, the record title to which is held separately from the title to the property; and restrictions of record.

(e) Unaccepted, recorded, irrevocable offers of dedication of the property to the public or a public entity for a public purpose, and recorded options of any taxing agency to purchase the property or any interest therein for a public purpose.

(f) Unpaid assessments under the Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500) of the Streets and Highways Code) which are not satisfied as a result of the sale proceeds being applied pursuant to Chapter 1.3 (commencing with Section 4671) of Part 8.

(g) Any federal Internal Revenue Service liens which, pursuant to provisions of federal law, are not discharged by the sale, even though the tax collector has provided proper notice to the Internal Revenue Service before that date.

(h) Unpaid special taxes under the Mello-Roos Community Facilities Act of 1982 (Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5 of the Government Code) that are

not satisfied as a result of the sale proceeds being applied pursuant to Chapter 1.3 (commencing with Section 4671) of Part 8.

SEC. 11. Section 4186 of the Revenue and Taxation Code is amended to read:

4186. As used in this chapter, "taxes" includes all taxes and assessments and annual installments of assessments charged on the roll, except for the following:

(a) Special assessments pledged to the payment of debt service on bonds issued pursuant to the Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500) of the Streets and Highways Code) for which the local agency has covenanted to foreclose on behalf of the bondholder pursuant to Section 8830 of the Streets and Highways Code.

(b) Special taxes pledged to the payment of debt service on bonds issued pursuant to the Mello-Roos Community Facilities Act of 1982 (Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5 of the Government Code) for which the local agency has covenanted to foreclose on behalf of the bondholder pursuant to subdivision (b) of Section 53356.1 of the Government Code.

SEC. 12. Section 4218 of the Revenue and Taxation Code is amended to read:

4218. (a) During the time payments are made under this article:

(1) The property subject to the installment plan shall not become subject to a power of sale pursuant to Section 3691.

(2) The right of redemption shall not be terminated.

(b) Subdivision (a) does not prohibit or delay foreclosure pursuant to Section 8830 of the Streets and Highways Code.

(c) Subdivision (a) does not prohibit or delay foreclosure pursuant to Section 53356.1 of the Government Code.

SEC. 13. Section 4986.3 of the Revenue and Taxation Code is amended to read:

4986.3. All or any portion of any uncollected tax, penalty, or costs, heretofore or hereafter levied, and not heretofore validly canceled, may, on satisfactory proof, be canceled by the auditor on order of the board of supervisors with the written consent of the district attorney if it was levied or charged on property subject to assessment or special taxes for the payment of bonds issued under the Improvement Bond Act of 1915 or the Mello-Roos Community Facilities Act of 1982 (Ch. 2.5 (commencing with Sec. 53311), Div. 2, Pt. 1, Title 5, Gov. C.) where that property was acquired after the lien date by a city on foreclosure proceedings under the Improvement Bond Act of 1915 or the Mello-Roos Community Facilities Act of 1982 (Ch. 2.5 (commencing with Sec. 53311), Div. 2, Pt. 1, Title 5, Gov. C.). If a city is entitled to bring foreclosure proceedings under the Improvement Bond Act of 1915 or the Mello-Roos Community Facilities Act of 1982 (Ch. 2.5 (commencing with Sec. 53311), Div. 2, Pt. 1, Title 5, Gov. C.) against any property and the city acquires the property in any other manner than by foreclosure and the governing body of the city by

resolution, covering any number of parcels acquired, declares that the acquisition was in lieu of acquisition under foreclosure proceedings, that acquisition is, for the purposes of this section, an acquisition by foreclosure proceedings under the Improvement Bond Act of 1915 or the Mello-Roos Community Facilities Act of 1982 (Ch. 2.5 (commencing with Sec. 53311), Div. 2, Pt. 1, Title 5, Gov. C.). This section applies regardless of whether the property acquired by the city is impressed with a public trust or is acquired for the purpose of resale.

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## CHAPTER 947

An act to add and repeal Sections 17053.57 and 23657 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor October 12, 1997. Filed with Secretary of State October 12, 1997.]

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

SECTION 1. Section 17053.57 is added to the Revenue and Taxation Code, to read:

17053.57. (a) For each taxable year beginning on or after January 1, 1997, and before January 1, 2002, there shall be allowed as a credit against the amount of "net tax," as defined in Section 17039, an amount equal to 20 percent of the amount of each qualified deposit made by a taxpayer during the taxable year into a community development financial institution.

(b) Notwithstanding any other provision of this part, no credit shall be allowed under this section unless the California Organized Investment Network of the Department of Insurance, or its successor, certifies that the deposit described in subdivision (a) qualifies for the credit under this section and certifies the total amount of the credit allocated to the taxpayer pursuant to this section. The aggregate amount of qualified deposits made by all taxpayers pursuant to this section and Section 23657 shall not exceed ten million dollars ($10,000,000) for each calendar year.

(c) The Community Development Financial Institution shall do all of the following:

(1) Apply to the California Organized Investment Network, or its successor, for certification of its status as a Community Development Financial Institution.

(2) Apply to the California Organized Investment Network, or its successor, on behalf of the taxpayer for certification of the credit amount allocated to the taxpayer prior to accepting any qualified deposit from the taxpayer.

(3) Transmit to the taxpayer and the California Organized Investment Network, or its successor, certification that a qualified deposit has been accepted, the amount of the deposit or equity investment, and the amount of credit to which the taxpayer is entitled, and retain a copy of the certification.

(4) Obtain the taxpayer's identification number, or in the case of a partnership, the taxpayer identification numbers of all the partners for tax administration purposes and provide this information to the California Organized Investment Network, or its successor, with the transmittal required in paragraph (3).

(5) Provide an annual listing to the Franchise Tax Board, in the form and manner agreed upon by the Franchise Tax Board and the California Organized Investment Network, or its successor, of the names and taxpayer identification numbers of any taxpayer who makes any withdrawal or partial withdrawal of a qualified deposit before the expiration of 60 months from the date of the qualified deposit.

(d) The California Organized Investment Network, or any successor thereof, shall do all of the following:

(1) Accept applications for certification from financial institutions and issue certificates that the applicant is a Community Development Financial Institution qualified to receive qualified deposits.

(2) Accept applications for certification from any Community Development Financial Institution on behalf of the taxpayer and issue certificates to taxpayers in an aggregate amount that shall not exceed the limit specified in subdivision (b). The certificate shall include the amount eligible to be made as a deposit or equity investment that qualifies for the credit and the total amount of the credit to which the taxpayer is entitled for the taxable year. Certificates shall be issued in the order in which the applications are received.

(3) Provide an annual listing to the Franchise Tax Board, in a form or manner agreed upon by the Franchise Tax Board, of the taxpayers who were issued certificates, their respective tax identification numbers, the amount of the qualified deposit made by each taxpayer, and the total amount of all qualified deposits.

(e) For purposes of this section:

(1) "Qualified deposit" means a deposit that does not earn interest, or an equity investment, that is equal to or greater than fifty thousand dollars ($50,000) and is made for a minimum duration of 60 months.

(2) "Community development financial institution" means a private financial institution located in this state that is certified by the California Organized Investment Network, or its successor, that has community development as its primary mission, and that lends in urban, rural, or reservation-based communities in this state. A community development financial institution may include a

community development bank, a community development loan fund, a community development credit union, a microenterprise fund, a community development corporation-based lender, and a community development venture fund.

(f) (1) If a qualified deposit is withdrawn before the end of the 60th month and not redeposited or reinvested in another Community Development Financial Institution within 60 days, there shall be added to the "net tax," as defined in Section 17039, for the taxable year in which the withdrawal occurs, the entire amount of any credit previously allowed under this section.

(2) If a qualified deposit is reduced before the end of the 60th month, but not below fifty thousand dollars ($50,000), there shall be added to the "net tax," as defined in Section 17039, for the taxable year in which the reduction occurs, an amount equal to 20 percent of the total reduction for the taxable year.

(g) In the case where the credit allowed by this section exceeds the "net tax," the excess may be carried over to reduce the "net tax" for the next four taxable years, or until the credit has been exhausted, whichever occurs first.

(h) This section shall remain in effect only until December 1, 2002, and as of that date is repealed.

SEC. 2. Section 23657 is added to the Revenue and Taxation Code, to read:

23657. (a) For each income year beginning on or after January 1, 1997, and before January 1, 2002, there shall be allowed as a credit against the amount of "tax," as defined in Section 23036, an amount equal to 20 percent of the amount of each qualified deposit made by a taxpayer during the income year into a community development financial institution.

(b) Notwithstanding any other provision of this part, no credit shall be allowed under this section unless the California Organized Investment Network of the Department of Insurance, or its successor, certifies that the deposit described in subdivision (a) qualifies for the credit under this section and certifies the total amount of the credit allocated to the taxpayer pursuant to this section. The aggregate amount of qualified deposits made by all taxpayers pursuant to this section and Section 17053.57 shall not exceed ten million dollars ($10,000,000) for each calendar year.

(c) The Community Development Financial Institution shall do all of the following:

(1) Apply to the California Organized Investment Network, or its successor, for certification of its status as a Community Development Financial Institution.

(2) Apply to the California Organized Investment Network, or its successor, on behalf of the taxpayer, for certification of the credit amount allocated to the taxpayer prior to accepting any qualified deposit from the taxpayer.

(3) Transmit to the taxpayer and the California Organized Investment Network, or its successor, certification that a qualified deposit has been accepted, amount of the deposit or equity investment, and the amount of credit to which the taxpayer is entitled, and retain a copy of the certification.

(4) Obtain the taxpayer's identification number, or in the case of an "S corporation," the taxpayer identification numbers of all the shareholders for tax administration purposes and provide this information to the California Organized Investment Network, or its successor, with the transmittal required in paragraph (3).

(5) Provide an annual listing to the Franchise Tax Board, in the form and manner agreed upon by the Franchise Tax Board and the California Organized Investment Network, or its successor, of the names and taxpayer identification numbers of any taxpayer who makes any withdrawal or partial withdrawal of a qualified deposit before the expiration of 60 months from the date of the qualified deposit.

(d) The California Organized Investment Network, or any successor thereof, shall do all of the following:

(1) Accept applications for certification from financial institutions and issue certificates that the applicant is a Community Development Financial Institution qualified to receive qualified deposits.

(2) Accept applications for certification from any Community Development Financial Institution on behalf of the taxpayer and issue certificates to taxpayers in an aggregate amount that shall not exceed the limit specified in subdivision (b). The certificate shall include the amount eligible to be made as a deposit or equity investment that qualifies for the credit and the total amount of the credit to which the taxpayer is entitled for the income year. Certificates shall be issued in the order that the applications are received.

(3) Provide an annual listing to the Franchise Tax Board, in the form or manner agreed upon by the Franchise Tax Board and the California Organized Investment Network, or its successor, of the taxpayers who were issued certificates, their respective tax identification numbers, the amount of the qualified deposit made by each taxpayer, and the total amount of all qualified deposits.

(e) For purposes of this section:

(1) "Qualified deposit" means a deposit that does not earn interest, or an equity investment, that is equal to or greater than fifty thousand dollars ($50,000) and is made for a minimum duration of 60 months.

(2) "Community development financial institution" means a private financial institution located in this state that is certified by the California Organized Investment Network, or its successor, that has community development as its primary mission, and that lends in urban, rural, or reservation-based communities in this state. A

community development financial institution may include a community development bank, a community development loan fund, a community development credit union, a microenterprise fund, a community development corporation-based lender, and a community development venture fund.

(f) (1) If a qualified deposit is withdrawn before the end of the 60th month and not redeposited or reinvested in another Community Development Financial Institution within 60 days, there shall be added to the "tax," as defined in Section 23036, for the income year in which the withdrawal occurs, the entire amount of any credit previously allowed under this section.

(2) If a qualified deposit is reduced before the end of the 60th month, but not below fifty thousand dollars ($50,000), there shall be added to the "tax," as defined in Section 23036, for the income year in which the reduction occurs, an amount equal to 20 percent of the total reduction for the income year.

(g) In the case where the credit allowed by this section exceeds the "tax," the excess may be carried over to reduce the "tax" for the next four income years, or until the credit has been exhausted, whichever occurs first.

(h) This section shall remain in effect only until December 1, 2002, and as of that date is repealed.

SEC. 3. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

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## CHAPTER 948

An act to add Chapter 14 (commencing with Section 11300) to Part 7 of the Education Code, relating to education.

[Approved by Governor October 12, 1997. Filed with Secretary of State October 12, 1997.]

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

SECTION 1. The Legislature finds and declares the following:

(a) The high school dropout rate in urban areas heavily impacted by drugs, gangs, and violence remains alarmingly high at approximately 25 percent. Many of the students at risk for not graduating are bright and eager to learn. There is an urgent need for an array of alternative educational options designed to keep them in school and prepare them for college or the work force. One of those programs is a middle college high school.

(b) A middle college high school is a high school located on a community college campus that is collaboratively operated by the local school district and the community college. The program serves selected at-risk students who are performing below their academic

potential. These students flourish in the community college environment where they are treated as responsible adults and interact with college role models.

(c) Middle college high schools emphasize employment training, community service internships, and college preparation, combined with guidance and motivational activities.

(d) In California, two middle college high schools were established pursuant to a grant from the California Community Colleges in 1989. Student outcomes at these programs are impressive, with over 90 percent of the students from the Los Angeles Southwest College program in 1994 graduating and going on to college or postsecondary schooling, and achievement of 87 percent attendance.

(e) It is the intent of the Legislature that the California Community Colleges and the State Department of Education work together to ensure the continued success of the existing middle college high schools and encourage the establishment of additional middle college high schools throughout the state.

SEC. 2. Chapter 14 (commencing with Section 11300) is added to Part 7 of the Education Code, to read:

CHAPTER 14. MIDDLE COLLEGE HIGH SCHOOLS

11300. (a) The Legislature finds and declares that middle college high schools have proven to be a highly effective collaborative effort between local school districts and community colleges. The goal of the middle college high school is to select at-risk high school students who are performing below their academic potential and place them in an alternative high school located on a community college campus in order to reduce the likelihood that they will drop out of school before graduation.

(b) Each middle college high school shall be structured as a broad-based, comprehensive instructional program focusing on college preparatory and school-to-work curricula, career education, work experience, community service, and support and motivational activities.

(c) The specific design of a middle college high school may vary depending on the circumstances of the community college or school district. The basic elements of the middle college high school shall include, but not be limited to, the following:

(1) A curriculum that focuses on college and career preparation.

(2) A reduced adult-student ratio.

(3) Flexible scheduling to allow for work internships, community service experience, and interaction with community college student role models.

(4) Opportunities for experiential internships, work apprenticeships, and community service.

11301. (a) The California Community Colleges and the State Department of Education shall collaborate with each other and with

their respective local community colleges and local school districts to ensure the continued success of existing middle college high schools and to promote the establishment of new middle college high schools.

(b) The responsibilities of the California Community Colleges and the State Department of Education pursuant to subdivision (a) shall include, but need not be limited to, the following:

(1) With respect to existing middle college high schools, to monitor the ongoing viability of the programs, assist with the resolution of policy or financial issues that may arise, and track specific outcomes for students and schools, including attendance rates, graduation rates, college entrance and attendance rates, and employment rates for those students who do not attend college.

(2) With respect to the promotion of new middle college high schools, respond to inquiries from local school districts and community colleges about the establishment of middle college high schools, advise local entities on start-up costs and ongoing funding mechanisms for the program, consult with local entities on the organizational structure of, and curriculum development for, the middle college high schools, facilitate the completion of any necessary facilities improvements, communicate with local entities at least biannually about the existence of middle college high schools and the availability of State Department of Education and California Community Colleges resources, if any, to assist with the establishment of middle college high schools.

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.

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## CHAPTER 949

An act to amend Sections 11124.1, 11125, 11125.1, 11125.5, 11125.7, 11126, 11126.3, 11129, 11130, 11130.7, and 11131 of, and to add Sections 11121.95, 11125.4, 11125.8, 11128.5, and 11131.5 to, the Government Code, relating to open meetings.

[Approved by Governor October 12, 1997. Filed with Secretary of State October 12, 1997.]

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

SECTION 1. Section 11121.95 is added to the Government Code, to read:

11121.95. Any person appointed or elected to serve as a member of a state body who has not yet assumed the duties of office shall conform his or her conduct to the requirements of this article and shall be treated for purposes of this article as if he or she has already assumed office.

SEC. 2. Section 11124.1 of the Government Code is amended to read:

11124.1. (a) Any person attending an open and public meeting of the state body shall have the right to record the proceedings with an audio or video tape recorder or a still or motion picture camera in the absence of a reasonable finding by the state body that the recording cannot continue without noise, illumination, or obstruction of view that constitutes, or would constitute, a persistent disruption of the proceedings.

(b) Any tape or film record of an open and public meeting made for whatever purpose by or at the direction of the state body shall be subject to inspection pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), but may be erased or destroyed 30 days after the taping or recording. Any inspection of an audio or video tape recording shall be provided without charge on an audio or video tape player made available by the state body.

(c) No state body shall prohibit or otherwise restrict the broadcast of its open and public meetings in the absence of a reasonable finding that the broadcast cannot be accomplished without noise, illumination, or obstruction of view that would constitute a persistent disruption of the proceedings.

SEC. 3. Section 11125 of the Government Code is amended to read:

11125. (a) The state body shall provide notice of its meeting to any person who requests that notice in writing. Notice shall be given at least 10 days in advance of the meeting, and shall include the name, address, and telephone number of any person who can provide further information prior to the meeting, but need not include a list of witnesses expected to appear at the meeting.

(b) The notice of a meeting of a body that is a state body as defined in Section 11121, 11121.2, 11121.5, or 11121.7 shall include a specific agenda for the meeting, which shall include the items of business to be transacted or discussed in closed session. A brief general description of an item generally need not exceed 20 words. A description of an item to be transacted or discussed in closed session shall include a citation of the specific statutory authority under which a closed session is being held. No item shall be added to the agenda subsequent to the provision of this notice.

(c) The notice of a meeting of an advisory body that is a state body as defined in Section 11121.8 shall include a brief, general description of the business to be transacted or discussed, and no item shall be added subsequent to the provision of the notice.

(d) Notice of a meeting of a state body that complies with this section shall also constitute notice of a meeting of an advisory body of that state body, provided that the business to be discussed by the advisory body is covered by the notice of the meeting of the state body, provided that the specific time and place of the advisory body's meeting is announced during the open and public state body's meeting, and provided that the advisory body's meeting is conducted within a reasonable time of, and nearby, the meeting of the state body.

(e) A person may request, and shall be provided, notice pursuant to subdivision (a) for all meetings of a state body or for a specific meeting or meetings. In addition, at the state body's discretion, a person may request, and may be provided, notice of only those meetings of a state body at which a particular subject or subjects specified in the request will be discussed.

(f) A request for notice of more than one meeting of a state body shall be subject to the provisions of Section 14911.

SEC. 4. Section 11125.1 of the Government Code is amended to read:

11125.1. (a) Notwithstanding Section 6255 or any other provisions of law, agendas of public meetings and other writings, when distributed to all, or a majority of all, of the members of a state body by any person in connection with a matter subject to discussion or consideration at a public meeting of the body, are disclosable public records under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), and shall be made available upon request without delay. However, this section shall not include any writing exempt from public disclosure under Section 6253.5, 6254, or 6254.7 of this code, or Section 489.1 or 583 of the Public Utilities Code.

(b) Writings that are public records under subdivision (a) and that are distributed to members of the state body prior to or during a meeting, pertaining to any item to be considered during the meeting, shall be made available for public inspection at the meeting if prepared by the state body or a member of the state body, or after the meeting if prepared by some other person.

(c) Nothing in this section shall be construed to prevent a state body from charging a fee or deposit for a copy of a public record pursuant to Section 6257. The writings described in subdivision (b) are subject to the requirements of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), and shall not be construed to limit or delay the public's right to inspect any record required to be disclosed by that act, or to limit the public's right to inspect any record covered by that act. This section

shall not be construed to be applicable to any writings solely because they are properly discussed in a closed session of a state body. Nothing in this article shall be construed to require a state body to place any paid advertisement or any other paid notice in any publication.

(d) "Writing" for purposes of this section means "writing" as defined under Section 6252.

SEC. 5. Section 11125.4 is added to the Government Code, to read:

11125.4. (a) A special meeting may be called at any time by the presiding officer of the state body or by a majority of the members of the state body. A special meeting may only be called for one of the following purposes where compliance with the 10-day notice provisions of Section 11125 would impose a substantial hardship on the state body or where immediate action is required to protect the public interest:

(1) To consider "pending litigation" as that term is defined in subdivision (q) of Section 11126.

(2) To consider proposed legislation.

(3) To consider issuance of a legal opinion.

(4) To consider disciplinary action involving a state officer or employee.

(5) To consider the purchase, sale, exchange, or lease of real property.

(6) To consider license examinations and applications.

(7) To consider an action on a loan or grant provided pursuant to Division 31 (commencing with Section 50000) of the Health and Safety Code.

(b) When a special meeting is called pursuant to one of the purposes specified in subdivision (a), the state body shall provide notice of the special meeting to each member of the state body and to all parties that have requested notice of its meetings as soon as is practicable after the decision to call a special meeting has been made, but shall be delivered in a manner that allows it to be received by the members and by newspapers of general circulation and radio or television stations at least 48 hours before the time of the special meeting specified in the notice. Notice shall be made available to newspapers of general circulation and radio or television stations by providing that notice to all national press wire services. Notice shall be provided to the general public by placing it on appropriate electronic bulletin boards or other appropriate mechanisms, whenever the state body has the electronic capability necessary to do so. The notice shall specify the time and place of the special meeting and the business to be transacted. No other business shall be considered at a special meeting by the state body. The written notice may be dispensed with as to any member who at or prior to the time the meeting convenes files with the clerk or secretary of the state body a written waiver of notice. The waiver may be given by telegram, facsimile transmission, or similar means. The written

notice may also be dispensed with as to any member who is actually present at the meeting at the time it convenes. Notice shall be required pursuant to this section regardless of whether any action is taken at the special meeting.

(c) At the commencement of any special meeting, the state body must make a finding in open session that the delay necessitated by providing notice 10 days prior to a meeting as required by Section 11125 would cause a substantial hardship on the body or that immediate action is required to protect the public interest. The finding shall set forth the specific facts that constitute the hardship to the body or the impending harm to the public interest. The finding shall be adopted by a two-thirds vote of the body, or, if less than two-thirds of the members are present, a unanimous vote of those members present. Failure to adopt the finding terminates the meeting.

SEC. 6. Section 11125.5 of the Government Code is amended to read:

11125.5. (a) In the case of an emergency situation involving matters upon which prompt action is necessary due to the disruption or threatened disruption of public facilities, a state body may hold an emergency meeting without complying with the 10-day notice requirement of Section 11125 or the 48-hour notice requirement of Section 11125.4.

(b) For purposes of this section, “emergency situation” means any of the following, as determined by a majority of the members of the state body during a meeting prior to the emergency meeting, or at the beginning of the emergency meeting:

(1) Work stoppage or other activity that severely impairs public health or safety, or both.

(2) Crippling disaster that severely impairs public health or safety, or both.

(c) However, newspapers of general circulation and radio or television stations that have requested notice of meetings pursuant to Section 11125 shall be notified by the presiding officer of the state body, or a designee thereof, one hour prior to the emergency meeting by telephone. If telephone services are not functioning, the notice requirements of this section shall be deemed waived, and the presiding officer of the state body, or a designee thereof, shall notify those newspapers, radio stations, or television stations of the fact of the holding of the emergency meeting, the purpose of the meeting, and any action taken at the meeting as soon after the meeting as possible.

(d) The minutes of a meeting called pursuant to this section, a list of persons who the presiding officer of the state body, or a designee thereof, notified or attempted to notify, a copy of the rollcall vote, and any action taken at the meeting shall be posted for a minimum of 10 days in a public place as soon after the meeting as possible.

SEC. 7. Section 11125.7 of the Government Code, as amended by Chapter 938 of the Statutes of 1995, is amended to read:

11125.7. (a) Except as otherwise provided in this section, the state body shall provide an opportunity for members of the public to directly address the state body on each agenda item before or during the state body's discussion or consideration of the item. This section is not applicable if the agenda item has already been considered by a committee composed exclusively of members of the state body at a public meeting where interested members of the public were afforded the opportunity to address the committee on the item, before or during the committee's consideration of the item, unless the item has been substantially changed since the committee heard the item, as determined by the state body. Every notice for a special meeting at which action is proposed to be taken on an item shall provide an opportunity for members of the public to directly address the state body concerning that item prior to action on the item. In addition, the notice requirement of Section 11125 shall not preclude the acceptance of testimony at meetings, other than emergency meetings, from members of the public, provided, however, that no action is taken by the state body at the same meeting on matters brought before the body by members of the public.

(b) The state body may adopt reasonable regulations to ensure that the intent of subdivision (a) is carried out, including, but not limited to, regulations limiting the total amount of time allocated for public comment on particular issues and for each individual speaker.

(c) The state body shall not prohibit public criticism of the policies, programs, or services of the state body, or of the acts or omissions of the state body. Nothing in this subdivision shall confer any privilege or protection for expression beyond that otherwise provided by law.

(d) This section is not applicable to closed sessions held pursuant to Section 11126.

(e) This section is not applicable to decisions regarding proceedings held pursuant to Chapter 5 (commencing with Section 11500), relating to administrative adjudication, or to the conduct of those proceedings.

(f) This section is not applicable to hearings conducted by the State Board of Control pursuant to Sections 13963 and 13963.1.

(g) This section is not applicable to agenda items that involve decisions of the Public Utilities Commission regarding adjudicatory hearings held pursuant to Chapter 9 (commencing with Section 1701) of Part 1 of Division 1 of the Public Utilities Code. For all other agenda items, the commission shall provide members of the public, other than those who have already participated in the proceedings underlying the agenda item, an opportunity to directly address the commission before or during the commission's consideration of the item.

SEC. 8. Section 11126 of the Government Code is amended to read:

11126. (a) (1) Nothing in this article shall be construed to prevent a state body from holding closed sessions during a regular or special meeting to consider the appointment, employment, evaluation of performance, or dismissal of a public employee or to hear complaints or charges brought against that employee by another person or employee unless the employee requests a public hearing.

(2) As a condition to holding a closed session on the complaints or charges to consider disciplinary action or to consider dismissal, the employee shall be given written notice of his or her right to have a public hearing, rather than a closed session, and that notice shall be delivered to the employee personally or by mail at least 24 hours before the time for holding a regular or special meeting. If notice is not given, any disciplinary or other action taken against any employee at the closed session shall be null and void.

(3) The state body also may exclude from any public or closed session, during the examination of a witness, any or all other witnesses in the matter being investigated by the state body.

(4) Following the public hearing or closed session, the body may deliberate on the decision to be reached in a closed session.

(b) For the purposes of this section, "employee" shall not include any person who is elected to, or appointed to a public office by, any state body. However, officers of the California State University who receive compensation for their services, other than per diem and ordinary and necessary expenses, shall, when engaged in that capacity, be considered employees. Furthermore, for purposes of this section, the term employee shall include a person exempt from civil service pursuant to subdivision (e) of Section 4 of Article VII of the California Constitution.

(c) Nothing in this article shall be construed to do any of the following:

(1) Prevent state bodies that administer the licensing of persons engaging in businesses or professions from holding closed sessions to prepare, approve, grade, or administer examinations.

(2) Prevent an advisory body of a state body that administers the licensing of persons engaged in businesses or professions from conducting a closed session to discuss matters that the advisory body has found would constitute an unwarranted invasion of the privacy of an individual licensee or applicant if discussed in an open meeting, provided the advisory body does not include a quorum of the members of the state body it advises. Those matters may include review of an applicant's qualifications for licensure and an inquiry specifically related to the state body's enforcement program concerning an individual licensee or applicant where the inquiry occurs prior to the filing of a civil, criminal, or administrative disciplinary action against the licensee or applicant by the state body.

(3) Prohibit a state body from holding a closed session to deliberate on a decision to be reached in a proceeding required to be conducted pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 or similar provisions of law.

(4) Grant a right to enter any correctional institution or the grounds of a correctional institution where that right is not otherwise granted by law, nor shall anything in this article be construed to prevent a state body from holding a closed session when considering and acting upon the determination of a term, parole, or release of any individual or other disposition of an individual case, or if public disclosure of the subjects under discussion or consideration is expressly prohibited by statute.

(5) Prevent any closed session to consider the conferring of honorary degrees, or gifts, donations, and bequests that the donor or proposed donor has requested in writing to be kept confidential.

(6) Prevent the Alcoholic Beverage Control Appeals Board from holding a closed session for the purpose of holding a deliberative conference as provided in Section 11125.

(7) (A) Prevent a state body from holding closed sessions with its negotiator prior to the purchase, sale, exchange, or lease of real property by or for the state body to give instructions to its negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease.

(B) However, prior to the closed session, the state body shall hold an open and public session in which it identifies the real property or real properties that the negotiations may concern and the person or persons with whom its negotiator may negotiate.

(C) For purposes of this paragraph, the negotiator may be a member of the state body.

(D) For purposes of this paragraph, "lease" includes renewal or renegotiation of a lease.

(E) Nothing in this paragraph shall preclude a state body from holding a closed session for discussions regarding eminent domain proceedings pursuant to subdivision (e).

(8) Prevent the California Postsecondary Education Commission from holding closed sessions to consider matters pertaining to the appointment or termination of the Director of the California Postsecondary Education Commission.

(9) Prevent the Council for Private Postsecondary and Vocational Education from holding closed sessions to consider matters pertaining to the appointment or termination of the Executive Director of the Council for Private Postsecondary and Vocational Education.

(10) Prevent the Franchise Tax Board from holding closed sessions for the purpose of discussion of confidential tax returns or information the public disclosure of which is prohibited by law, or from considering matters pertaining to the appointment or removal of the Executive Officer of the Franchise Tax Board.

(11) Require the Franchise Tax Board to notice or disclose any confidential tax information considered in closed sessions, or documents executed in connection therewith, the public disclosure of which is prohibited pursuant to Article 2 (commencing with Section 19542) of Chapter 7 of Part 10.2 of the Revenue and Taxation Code.

(12) Prevent the Board of Corrections from holding closed sessions when considering reports of crime conditions under Section 6027 of the Penal Code.

(13) Prevent the State Air Resources Board from holding closed sessions when considering the proprietary specifications and performance data of manufacturers.

(14) Prevent the State Board of Education, or any committee advising the State Board of Education, from holding closed sessions on those portions of its review of assessment instruments pursuant to Chapter 5 (commencing with Section 60600) of Part 33 of the Education Code during which actual test content is reviewed and discussed. The purpose of this provision is to maintain the confidentiality of the assessments under review.

(15) Prevent the California Integrated Waste Management Board or its auxiliary committees from holding closed sessions for the purpose of discussing confidential tax returns, discussing trade secrets or confidential or proprietary information in its possession, or discussing other data, the public disclosure of which is prohibited by law.

(16) Prevent a state body that invests retirement, pension, or endowment funds from holding closed sessions when considering investment decisions. For purposes of consideration of shareholder voting on corporate stocks held by the state body, closed sessions for the purposes of voting may be held only with respect to election of corporate directors, election of independent auditors, and other financial issues that could have a material effect on the net income of the corporation. For the purpose of real property investment decisions that may be considered in a closed session pursuant to this paragraph, a state body shall also be exempt from the provisions of paragraph (7) relating to the identification of real properties prior to the closed session.

(17) Prevent a state body, or boards, commissions, administrative officers, or other representatives that may properly be designated by law or by a state body, from holding closed sessions with its representatives in discharging its responsibilities under Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 as the sessions relate to salaries, salary schedules, or compensation paid in the form of fringe benefits. For the purposes enumerated in the preceding sentence, a state body may also meet with a state conciliator who has intervened in the proceedings.

(d) (1) Notwithstanding any other provision of law, any meeting of the Public Utilities Commission at which the rates of entities under the commission's jurisdiction are changed shall be open and public.

(2) Nothing in this article shall be construed to prevent the Public Utilities Commission from holding closed sessions to deliberate on the institution of proceedings, or disciplinary actions against regulated utilities.

(e) (1) Nothing in this article shall be construed to prevent a state body, based on the advice of its legal counsel, from holding a closed session to confer with, or receive advice from, its legal counsel regarding pending litigation when discussion in open session concerning those matters would prejudice the position of the state body in the litigation.

(2) For purposes of this article, all expressions of the lawyer-client privilege other than those provided in this subdivision are hereby abrogated. This subdivision is the exclusive expression of the lawyer-client privilege for purposes of conducting closed-session meetings pursuant to this article. For purposes of this subdivision, litigation shall be considered pending when any of the following circumstances exist:

(A) An adjudicatory proceeding before a court, an administrative body exercising its adjudicatory authority, a hearing officer, or an arbitrator, to which the state body is a party, has been initiated formally.

(B) (i) A point has been reached where, in the opinion of the state body on the advice of its legal counsel, based on existing facts and circumstances, there is a significant exposure to litigation against the state body.

(ii) Based on existing facts and circumstances, the state body is meeting only to decide whether a closed session is authorized pursuant to clause (i).

(C) (i) Based on existing facts and circumstances, the state body has decided to initiate or is deciding whether to initiate litigation.

(ii) The legal counsel of the state body shall prepare and submit to it a memorandum stating the specific reasons and legal authority for the closed session. If the closed session is pursuant to paragraph (1), the memorandum shall include the title of the litigation. If the closed session is pursuant to subparagraph (A) or (B), the memorandum shall include the existing facts and circumstances on which it is based. The legal counsel shall submit the memorandum to the state body prior to the closed session, if feasible, and in any case no later than one week after the closed session. The memorandum shall be exempt from disclosure pursuant to Section 6254.25.

(iii) For purposes of this subdivision, "litigation" includes any adjudicatory proceeding, including eminent domain, before a court, administrative body exercising its adjudicatory authority, hearing officer, or arbitrator.

(iv) Disclosure of a memorandum required under this subdivision shall not be deemed as a waiver of the lawyer-client privilege, as provided for under Article 3 (commencing with Section 950) of Chapter 4 of Division 8 of the Evidence Code.

(f) In addition to subdivisions (a), (b), and (c), nothing in this article shall be construed to do any of the following:

(1) Prevent a state body operating under a joint powers agreement for insurance pooling from holding a closed session to discuss a claim for the payment of tort liability or public liability losses incurred by the state body or any member agency under the joint powers agreement.

(2) Prevent the examining committee established by the State Board of Forestry, pursuant to Section 763 of the Public Resources Code, from conducting a closed session to consider disciplinary action against an individual professional forester prior to the filing of an accusation against the forester pursuant to Section 11503.

(3) Prevent an administrative committee established by the State Board of Accountancy pursuant to Section 5020 or 5020.3 of the Business and Professions Code from conducting a closed session to consider disciplinary action against an individual accountant prior to the filing of an accusation against the accountant pursuant to Section 11503. Nothing in this article shall be construed to prevent an examining committee established by the Board of Accountancy pursuant to Section 5023 of the Business and Professions Code from conducting a closed hearing to interview an individual applicant or accountant regarding the applicant's qualifications.

(4) Prevent a state body, as defined in Section 11121.2, from conducting a closed session to consider any matter that properly could be considered in closed session by the state body whose authority it exercises.

(5) Prevent a state body, as defined in Section 11121.7, from conducting a closed session to consider any matter that properly could be considered in a closed session by the body defined as a state body pursuant to Section 11121, 11121.2, or 11121.5.

(6) Prevent a state body, as defined in Section 11121.8, from conducting a closed session to consider any matter that properly could be considered in a closed session by the state body it advises.

(7) Prevent the State Board of Equalization from holding closed sessions for either of the following:

(A) When considering matters pertaining to the appointment or removal of the Executive Secretary of the State Board of Equalization.

(B) For the purpose of hearing confidential taxpayer appeals or data, the public disclosure of which is prohibited by law.

(8) Require the State Board of Equalization to disclose any action taken in closed session or documents executed in connection with that action, the public disclosure of which is prohibited by law pursuant to Sections 15619 and 15641 of this code and Sections 833,

7056, 8255, 9255, 11655, 30455, 32455, 38705, 38706, 43651, 45982, 46751, 50159, 55381, and 60609 of the Revenue and Taxation Code.

(9) Prevent the California Earthquake Prediction Evaluation Council, or other body appointed to advise the Director of the Office of Emergency Services or the Governor pursuant to Section 8590 concerning matters relating to volcanic or earthquake predictions, from holding closed sessions when considering the evaluation of possible predictions.

(g) This article shall not prevent either of the following:

(1) The Teachers' Retirement Board or the Board of Administration of the Public Employees' Retirement System from holding closed sessions when considering matters pertaining to the recruitment, appointment, employment, or removal of the chief executive officer or when considering matters pertaining to the recruitment or removal of the Chief Investment Officer of the State Teachers' Retirement System or the Public Employees' Retirement System.

(2) The Commission on Teacher Credentialing from holding closed sessions when considering matters relating to the recruitment, appointment, or removal of its executive director.

SEC. 8.5. Section 11126 of the Government Code is amended to read:

11126. (a) (1) Nothing in this article shall be construed to prevent a state body from holding closed sessions during a regular or special meeting to consider the appointment, employment, evaluation of employment, or dismissal of a public employee or to hear complaints or charges brought against that employee by another person or employee unless the employee requests a public hearing.

(2) As a condition to holding a closed session on the complaints or charges to consider disciplinary action or to consider dismissal, the employee shall be given written notice of his or her right to have a public hearing, rather than a closed session, and that notice shall be delivered to the employee personally or by mail at least 24 hours before the time for holding a regular or special meeting. If notice is not given, any disciplinary or other action taken against any employee at the closed session shall be null and void.

(3) The state body also may exclude from any public or closed session, during the examination of a witness, any or all other witnesses in the matter being investigated by the state body.

(4) Following the public hearing or closed session, the body may deliberate on the decision to be reached in a closed session.

(b) For the purposes of this section, "employee" shall not include any person who is elected to, or appointed to a public office by, any state body. However, officers of the California State University who receive compensation for their services, other than per diem and ordinary and necessary expenses, shall, when engaged in that capacity, be considered employees. Furthermore, for purposes of this

section, the term employee shall include a person exempt from civil service pursuant to subdivision (e) of Section 4 of Article VII of the California Constitution.

(c) Nothing in this article shall be construed to do any of the following:

(1) Prevent state bodies that administer the licensing of persons engaging in businesses or professions from holding closed sessions to prepare, approve, grade, or administer examinations.

(2) Prevent an advisory body of a state body that administers the licensing of persons engaged in businesses or professions from conducting a closed session to discuss matters that the advisory body has found would constitute an unwarranted invasion of the privacy of an individual licensee or applicant if discussed in an open meeting, provided the advisory body does not include a quorum of the members of the state body it advises. Those matters may include review of an applicant's qualifications for licensure and an inquiry specifically related to the state body's enforcement program concerning an individual licensee or applicant if the inquiry occurs prior to the filing of a civil, criminal, or administrative disciplinary action against the licensee or applicant by the state body.

(3) Prohibit a state body from holding a closed session to deliberate on a decision to be reached in a proceeding required to be conducted pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 or similar provisions of law.

(4) Grant a right to enter any correctional institution or the grounds of a correctional institution where that right is not otherwise granted by law, nor shall anything in this article be construed to prevent a state body from holding a closed session when considering and acting upon the determination of a term, parole, or release of any individual or other disposition of an individual case, or if public disclosure of the subjects under discussion or consideration is expressly prohibited by statute.

(5) Prevent any closed session to consider the conferring of honorary degrees, or gifts, donations, and bequests which the donor or proposed donor has requested in writing to be kept confidential.

(6) Prevent the Alcoholic Beverage Control Appeals Board from holding a closed session for the purpose of holding a deliberative conference as provided in Section 11125.

(7) (A) Prevent a state body from holding closed sessions with its negotiator prior to the purchase, sale, exchange, or lease of real property by or for the state body to give instructions to its negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease.

(B) However, prior to the closed session, the state body shall hold an open and public session in which it identifies the real property or real properties which the negotiations may concern and the person or persons with whom its negotiator may negotiate.

(C) For purposes of this paragraph, the negotiator may be a member of the state body.

(D) For purposes of this paragraph, “lease” includes renewal or renegotiation of a lease.

(E) Nothing in this paragraph shall preclude a state body from holding a closed session for discussions regarding eminent domain proceedings pursuant to subdivision (e).

(8) Prevent the California Postsecondary Education Commission from holding closed sessions to consider matters pertaining to the appointment or termination of the Director of the California Postsecondary Education Commission.

(9) Prevent the Council for Private Postsecondary and Vocational Education from holding closed sessions to consider matters pertaining to the appointment or termination of the Executive Director of the Council for Private Postsecondary and Vocational Education.

(10) Prevent the Franchise Tax Board from holding closed sessions for the purpose of discussion of confidential tax returns or information the public disclosure of which is prohibited by law, or from considering matters pertaining to the appointment or removal of the Executive Officer of the Franchise Tax Board.

(11) Require the Franchise Tax Board to notice or disclose any confidential tax information considered in closed sessions, or documents executed in connection therewith, the public disclosure of which is prohibited pursuant to Article 2 (commencing with Section 19542) of Chapter 7 of Part 10.2 of the Revenue and Taxation Code.

(12) Prevent the Board of Corrections from holding closed sessions when considering reports of crime conditions under Section 6027 of the Penal Code.

(13) Prevent the State Air Resources Board from holding closed sessions when considering the proprietary specifications and performance data of manufacturers.

(14) Prevent the State Board of Education, or any committee advising the State Board of Education, from holding closed sessions on those portions of its review of assessment instruments pursuant to Chapter 5 (commencing with Section 60600) of Part 33 of the Education Code during which actual test content is reviewed and discussed. The purpose of this provision is to maintain the confidentiality of the assessments under review.

(15) Prevent the California Integrated Waste Management Board or its auxiliary committees from holding closed sessions for the purpose of discussing confidential tax returns, discussing trade secrets or confidential or proprietary information in its possession, or discussing other data, the public disclosure of which is prohibited by law.

(16) Prevent a state body that invests retirement, pension, or endowment funds from holding closed sessions when considering

investment decisions. For purposes of consideration of shareholder voting on corporate stocks held by the state body, closed sessions for the purposes of voting may be held only with respect to election of corporate directors, election of independent auditors, and other financial issues that could have a material effect on the net income of the corporation. For the purpose of real property investment decisions that may be considered in a closed session pursuant to this paragraph, a state body shall also be exempt from the provisions of paragraph (7) relating to the identification of real properties prior to the closed session.

(17) Prevent a state body, or boards, commissions, administrative officers, or other representatives that may properly be designated by law or by a state body, from holding closed sessions with its representatives in discharging its responsibilities under Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 as the sessions relate to salaries, salary schedules, or compensation paid in the form of fringe benefits. For the purposes enumerated in the preceding sentence, a state body may also meet with a state conciliator who has intervened in the proceedings.

(d) (1) Notwithstanding any other provision of law, any meeting of the Public Utilities Commission at which the rates of entities under the commission's jurisdiction are changed shall be open and public.

(2) Nothing in this article shall be construed to prevent the Public Utilities Commission from holding closed sessions to deliberate on the institution of proceedings, or disciplinary actions against regulated utilities.

(e) (1) Nothing in this article shall be construed to prevent a state body, based on the advice of its legal counsel, from holding a closed session to confer with, or receive advice from, its legal counsel regarding pending litigation when discussion in open session concerning those matters would prejudice the position of the state body in the litigation.

(2) For purposes of this article, all expressions of the lawyer-client privilege other than those provided in this subdivision are hereby abrogated. This subdivision is the exclusive expression of the lawyer-client privilege for purposes of conducting closed-session meetings pursuant to this article. For purposes of this subdivision, litigation shall be considered pending when any of the following circumstances exist:

(A) An adjudicatory proceeding before a court, an administrative body exercising its adjudicatory authority, a hearing officer, or an arbitrator, to which the state body is a party, has been initiated formally.

(B) (i) A point has been reached where, in the opinion of the state body on the advice of its legal counsel, based on existing facts and circumstances, there is a significant exposure to litigation against the state body.

(ii) Based on existing facts and circumstances, the state body is meeting only to decide whether a closed session is authorized pursuant to clause (i).

(C) (i) Based on existing facts and circumstances, the state body has decided to initiate or is deciding whether to initiate litigation.

(ii) The legal counsel of the state body shall prepare and submit to it a memorandum stating the specific reasons and legal authority for the closed session. If the closed session is pursuant to paragraph (1), the memorandum shall include the title of the litigation. If the closed session is pursuant to subparagraph (A) or (B), the memorandum shall include the existing facts and circumstances on which it is based. The legal counsel shall submit the memorandum to the state body prior to the closed session, if feasible, and in any case no later than one week after the closed session. The memorandum shall be exempt from disclosure pursuant to Section 6254.25.

(iii) For purposes of this subdivision, "litigation" includes any adjudicatory proceeding, including eminent domain, before a court, administrative body exercising its adjudicatory authority, hearing officer, or arbitrator.

(iv) Disclosure of a memorandum required under this subdivision shall not be deemed as a waiver of the lawyer-client privilege, as provided for under Article 3 (commencing with Section 950) of Chapter 4 of Division 8 of the Evidence Code.

(f) In addition to subdivisions (a), (b), and (c), nothing in this article shall be construed to do any of the following:

(1) Prevent a state body operating under a joint powers agreement for insurance pooling from holding a closed session to discuss a claim for the payment of tort liability or public liability losses incurred by the state body or any member agency under the joint powers agreement.

(2) Prevent the examining committee established by the State Board of Forestry and Fire Protection, pursuant to Section 763 of the Public Resources Code, from conducting a closed session to consider disciplinary action against an individual professional forester prior to the filing of an accusation against the forester pursuant to Section 11503.

(3) Prevent an administrative committee established by the State Board of Accountancy pursuant to Section 5020 or 5020.3 of the Business and Professions Code from conducting a closed session to consider disciplinary action against an individual accountant prior to the filing of an accusation against the accountant pursuant to Section 11503. Nothing in this article shall be construed to prevent an examining committee established by the Board of Accountancy pursuant to Section 5023 of the Business and Professions Code from conducting a closed hearing to interview an individual applicant or accountant regarding the applicant's qualifications.

(4) Prevent a state body, as defined in Section 11121.2, from conducting a closed session to consider any matter that properly

could be considered in closed session by the state body whose authority it exercises.

(5) Prevent a state body, as defined in Section 11121.7, from conducting a closed session to consider any matter that properly could be considered in a closed session by the body defined as a state body pursuant to Section 11121, 11121.2, or 11121.5.

(6) Prevent a state body, as defined in Section 11121.8, from conducting a closed session to consider any matter that properly could be considered in a closed session by the state body it advises.

(7) Prevent the State Board of Equalization from holding closed sessions for either of the following:

(A) When considering matters pertaining to the appointment or removal of the Executive Secretary of the State Board of Equalization.

(B) For the purpose of hearing confidential taxpayer appeals or data, the public disclosure of which is prohibited by law.

(8) Require the State Board of Equalization to disclose any action taken in closed session or documents executed in connection with that action, the public disclosure of which is prohibited by law pursuant to Sections 15619 and 15641 of this code and Sections 833, 7056, 8255, 9255, 11655, 30455, 32455, 38705, 38706, 43651, 45982, 46751, 50159, 55381, and 60609 of the Revenue and Taxation Code.

(9) Prevent the California Earthquake Prediction Evaluation Council, or other body appointed to advise the Director of the Office of Emergency Services or the Governor pursuant to Section 8590 concerning matters relating to volcanic or earthquake predictions, from holding closed sessions when considering the evaluation of possible predictions.

(g) This article shall not prevent either of the following:

(1) The Teachers' Retirement Board or the Board of Administration of the Public Employees' Retirement System from holding closed sessions when considering matters pertaining to the recruitment, appointment, employment, or removal of the chief executive officer or when considering matters pertaining to the recruitment or removal of the Chief Investment Officer of the State Teachers' Retirement System or the Public Employees' Retirement System.

(2) The Commission on Teacher Credentialing from holding closed sessions when considering matters relating to the recruitment, appointment, or removal of its executive director.

SEC. 9. Section 11125.8 is added to the Government Code, to read:

11125.8. (a) Notwithstanding Section 11131.5, in any hearing that the State Board of Control conducts pursuant to Section 13963.1 and that the applicant or applicant's representative does not request be open to the public, no notice, agenda, announcement, or report required under this article need identify the applicant.

(b) In any hearing that the board conducts pursuant to Section 13963.1 and that the applicant or applicant's representative does not request be open to the public, the board shall disclose that the hearing is being held pursuant to Section 13963.1. That disclosure shall be deemed to satisfy the requirements of subdivision (a) of Section 11126.3.

SEC. 10. Section 11126.3 of the Government Code is amended to read:

11126.3. (a) Prior to holding any closed session, the state body shall disclose, in an open meeting, the general nature of the item or items to be discussed in the closed session. The disclosure may take the form of a reference to the item or items as they are listed by number or letter on the agenda. If the session is closed pursuant to subparagraph (A) of paragraph (2) of subdivision (e) of Section 11126, the state body shall state the title of, or otherwise specifically identify, the litigation to be discussed unless the body states that to do so would jeopardize the body's ability to effectuate service of process upon one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage.

(b) In the closed session, the state body may consider only those matters covered in its disclosure.

(c) The disclosure shall be made as part of the notice provided for the meeting pursuant to Section 11125 or pursuant to subdivision (a) of Section 92032 of the Education Code and of any order or notice required by Section 11129.

(d) If, after the agenda has been published in compliance with this article, any additional pending litigation (under subdivision (e) of Section 11126) matters arise, the postponement of which will prevent the state body from complying with any statutory, court-ordered, or other legally imposed deadline, the state body may proceed to discuss those matters in closed session and shall publicly announce in the meeting the title of, or otherwise specifically identify, the litigation to be discussed, unless the body states that to do so would jeopardize the body's ability to effectuate service of process upon one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage. Such an announcement shall be deemed to comply fully with the requirements of this section.

(e) Nothing in this section shall require or authorize a disclosure of names or other information that would constitute an invasion of privacy or otherwise unnecessarily divulge the particular facts concerning the closed session or the disclosure of which is prohibited by state or federal law.

(f) After any closed session, the state body shall reconvene into open session prior to adjournment and shall make any reports, provide any documentation, and make any other disclosures required by Section 11125.2 of action taken in the closed session.

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

SEC. 11. Section 11128.5 is added to the Government Code, to read:

11128.5. The state body may adjourn any regular, adjourned regular, special, or adjourned special meeting to a time and place specified in the order of adjournment. Less than a quorum may so adjourn from time to time. If all members are absent from any regular or adjourned regular meeting, the clerk or secretary of the state body may declare the meeting adjourned to a stated time and place and he or she shall cause a written notice of the adjournment to be given in the same manner as provided in Section 11125.4 for special meetings, unless that notice is waived as provided for special meetings. A copy of the order or notice of adjournment shall be conspicuously posted on or near the door of the place where the regular, adjourned regular, special, or adjourned special meeting was held within 24 hours after the time of the adjournment. When a regular or adjourned regular meeting is adjourned as provided in this section, the resulting adjourned regular meeting is a regular meeting for all purposes. When an order of adjournment of any meeting fails to state the hour at which the adjourned meeting is to be held, it shall be held at the hour specified for regular meetings by law or regulation.

SEC. 12. Section 11129 of the Government Code is amended to read:

11129. Any hearing being held, or noticed or ordered to be held by a state body at any meeting may by order or notice of continuance be continued or recontinued to any subsequent meeting of the state body in the same manner and to the same extent set forth in Section 11128.5 for the adjournment of meetings. A copy of the order or notice of continuance shall be conspicuously posted on or near the door of the place where the hearing was held within 24 hours after the time of the continuance; provided, that if the hearing is continued to a time less than 24 hours after the time specified in the order or notice of hearing, a copy of the order or notice of continuance of hearing shall be posted immediately following the meeting at which the order or declaration of continuance was adopted or made.

SEC. 13. Section 11130 of the Government Code is amended to read:

11130. (a) The Attorney General, the district attorney, or any interested person may commence an action by mandamus, injunction, or declaratory relief for the purpose of stopping or preventing violations or threatened violations of this article or to determine the applicability of this article to actions or threatened future action by members of the state body or to determine whether

any rule or action by the state body to penalize or otherwise discourage the expression of one or more of its members is valid or invalid under the laws of this state or of the United States, or to compel the state body to tape record its closed sessions as hereinafter provided.

(b) The court in its discretion may, upon a judgment of a violation of Section 11126, order the state body to tape record its closed sessions and preserve the tape recordings for the period and under the terms of security and confidentiality the court deems appropriate.

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

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

(A) In any case in which discovery or disclosure of the tape is sought by the Attorney General, the district attorney, or the plaintiff in a civil action pursuant to this section or Section 11130.3 alleging that a violation of this article has occurred in a closed session that has been recorded pursuant to this section, the party seeking discovery or disclosure shall file a written notice of motion with the appropriate court with notice to the governmental agency that has custody and control of the tape recording. The notice shall be given pursuant to subdivision (b) of Section 1005 of the Code of Civil Procedure.

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

(i) Identification of the proceeding in which discovery or disclosure is sought, the party seeking discovery or disclosure, the date and time of the meeting recorded, and the governmental agency that has custody and control of the recording.

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

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

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

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

SEC. 14. Section 11130.7 of the Government Code is amended to read:

11130.7. Each member of a state body who attends a meeting of that body in violation of any provision of this article, and where the member intends to deprive the public of information to which the

member knows or has reason to know the public is entitled under this article, is guilty of a misdemeanor.

SEC. 15. Section 11131 of the Government Code is amended to read:

11131. No state agency shall conduct any meeting, conference, or other function in any facility that prohibits the admittance of any person, or persons, on the basis of race, religious creed, color, national origin, ancestry, or sex, or that is inaccessible to disabled persons, or where members of the public may not be present without making a payment or purchase. As used in this section, "state agency" means and includes every state body, office, officer, department, division, bureau, board, council, commission, or other state agency.

SEC. 16. Section 11131.5 is added to the Government Code, to read:

11131.5. No notice, agenda, announcement, or report required under this article need identify any victim or alleged victim of crime, tortious sexual conduct, or child abuse unless the identity of the person has been publicly disclosed.

SEC. 17. Section 8.5 of this bill incorporates amendments to Section 11126 of the Government Code proposed by both this bill and SB 989. 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 11126 of the Government Code, and (3) this bill is enacted after SB 989, in which case Section 8 of this bill shall not become operative.

SEC. 18. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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

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## CHAPTER 950

An act to amend Section 41472 of the Education Code, relating to education.

[Approved by Governor October 13, 1997. Filed with
Secretary of State October 13, 1997.]

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

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

(1) The state's primary grade Class Size Reduction Program, as implemented in 1996 pursuant to Chapter 6.10 (commencing with Section 52120) of Part 28 of the Education Code, has increased the number of classrooms needed by the West Contra Costa Unified School District to adequately house its students, so that some of the sites once considered "excess" are now questionable in that regard.

(2) The West Contra Costa Unified School District's El Portal site has proven to be unsalable because of seismic risks.

(3) The reduced marketability of these properties has limited West Contra Costa Unified School District's means to expedite repayment of the loan entered into with the state pursuant to Section 41472 of the Education Code.

(4) From the first annual debt payment of 1993 through the 1998 payment, the district will have paid fifteen million dollars ($15,000,000), including nine million eight hundred thousand dollars ($9,800,000) in principal and five million two hundred thousand dollars ($5,200,000) in interest, toward its debt of twenty-nine million dollars ($29,000,000).

(b) It is, therefore, the intent of the Legislature that the debt repayment schedule entered into pursuant to Section 41472 of the Education Code be further amended so that, following the "balloon" payment of the West Contra Costa Unified School District in 1998, the remaining district debt is to be repaid as a straightline loan amortized over a 20-year term.

SEC. 2. Section 41472 of the Education Code is amended to read:

41472. (a) The school district may prepay its loan obligation without incurring any prepayment penalties.

(b) (1) The minimum payment on the consolidated debt shall be determined according to the following payment schedule:

| Due Date | Payment Amount |
|---|---|
| 2/1/93 | $ 0 |
| 2/1/94 | 0 |
| 2/1/95 | 5,570,443 |
| 2/1/96 | 1,870,443 |
| 2/1/97 | 1,870,443 |
| 2/1/98 | 5,570,443 |

(2) The debt remaining after the school district's 1998 payment shall be repaid as a straight-line loan amortized over a 20-year term. This amount shall be repaid by the school district, plus interest

calculated at a rate equal to the rate earned by the Pooled Money Investment Account on the date the act that adds this paragraph is chaptered, for a period not to exceed 20 years.

(c) If payment is not made within 60 days after the scheduled date, the Controller shall pay the defaulted loan payment of principal and interest by withholding that amount from the next available payment that would otherwise be made to the county treasurer on behalf of the district pursuant to Section 14041 of the Education Code. However, subject to the approval of the Department of Finance, the amount withheld may be in monthly amounts as determined by an agreement between the West Contra Costa Unified School District and the Controller during the period beginning with the next available apportionment through the month preceding the next scheduled payment.

(d) The Director of the Department of Finance may, upon the request of the Superintendent of Public Instruction, amend the payment schedule set forth in subdivision (b) if the director concludes that the amendment is warranted and is in the best interests of both the state and the West Contra Costa Unified School District education program. Upon that determination, the director shall notify the Joint Legislative Budget Committee that the payment schedule will be changed on the date that is 90 days from the date of notification if the Legislature is in session, unless the Joint Legislative Budget Committee takes appropriate action to preclude that change. If the 90-day period ends during a recess of the Legislature or while the Legislature is not in session, the 90-day period shall be extended until the Legislature reconvenes. Amendments to the repayment schedule shall defer the unpaid portion of a repayment of the earliest fiscal year in which no other repayment is scheduled. Interest shall accrue on the unpaid portion of a repayment from the scheduled due date until the time the payment is actually made. The interest charge shall be the same rate as specified in Section 41471.

(e) If the district is able to sell properties in advance of any of the obligations contained in the schedule set forth in subdivision (b), the scheduled interest cost shall be reduced in accordance with any prepayments that are made. If the repayment schedule is amended pursuant to subdivision (d), all proceeds from any properties sold in advance of any of the obligations shall be used as prepayment on the schedule.

SEC. 3. The Legislature finds and declares that, due to the unique fiscal circumstances of the West Contra Costa Unified School District, as set out in Section 1 of this act, a general statute within the meaning of Section 16 of Article IV of the California Constitution cannot be made applicable. The enactment of this special statute is therefore necessary.

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## CHAPTER 951

An act to amend Sections 20232, 20405, 21074, 21151, 21221, 21451, 21493, 21494, 21497, 21506, 21674, 22013.3, 22013.6, 22013.7, 22013.75, 22013.76, 22013.8, 22013.85, 22013.9, 22013.95, 22013.955, 22013.96, 22013.97, 22013.10, 22013.11, 22014.5, 22754, 22810, 22810.3, 22811.5, 22811.6, 22818, 22823, 22825.5, 22832, and 22850.2 of, to amend and repeal Section 20903 of, to amend and renumber Section 21296 of, to add Chapter 18 (commencing with Section 21700) to Part 3 of Division 5 of Title 2 of, and to repeal Sections 20234 and 22014.3 of, the Government Code, relating to public employees, and making an appropriation therefor.

[Approved by Governor October 13, 1997. Filed with
Secretary of State October 13, 1997.]

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

SECTION 1. Section 20232 of the Government Code is amended to read:

20232. As soon as practicable after the close of each fiscal year the board shall file with the Governor and the Legislature a report of its financial statements and investments for the fiscal year. The report shall be submitted in printed or electronic form and shall include, but not be limited to, each of the following:

(a) A copy of the annual audit performed pursuant to Section 20228.

(b) A review of the system's asset mix strategy, a market review of the economic and financial environment in which investments were made, and a summary of the system's general investment strategy.

(c) A description of the investments currently held by this system at cost and market value. The description of investments shall include, but not be limited to, the asset classes reported pursuant to Section 20235. The report shall also include a list of all investment holdings at the close of the fiscal year, including any major divestitures taken during the fiscal year.

(d) The following information regarding the rate of return of this system by asset type:

(1) Time-weighted market value rate of return on a five-year, three-year, and one-year basis.

(2) Portfolio return comparisons by asset class that compare investment returns with an alternative theoretical portfolio of comparable funds, universes, and indexes.

(e) The use of outside investment advisers and managers, including costs and fees.

(f) A description of the system's investments at cost and market value held in the state.

(g) A review of the system's custodial relationship and daily cash management, purchases, sales, turnover, private placements, soft dollar purchases, and transaction costs such as commissions, dealer spreads, and accommodations.

SEC. 2. Section 20234 of the Government Code is repealed.

SEC. 3. Section 20405 of the Government Code is amended to read:

20405. (a) "State safety member" shall also include officers and employees of the Board of Prison Terms, the Department of Corrections, the Department of the Youth Authority, or the Prison Industry Authority in the following classifications:

| Classification Code | Classification |
|---|---|
| 0683 | Assistant Dairy Operator |
| 2156 | Assistant Food Manager (Correctional Facility) |
| 4302 | Assistant General Manager, Operations |
| 2080 | Assistant Seamer (Correctional Facility) |
| 5447 | Assistant Warden, Psychiatric Services, Correctional Facility |
| 6868 | Automobile Mechanic (Correctional Facility) |
| 6394 | Automotive Equipment Operator I (Correctional Facility) |
| 6392 | Automotive Equipment Operator II (Correctional Facility) |
| 6893 | Automotive Pool Manager I (Correctional Facility) |
| 2224 | Baker I (Correctional Facility) |
| 2221 | Baker II (Correctional Facility) |
| 2086 | Barber (Correctional Facility) |
| 2084 | Barbershop Manager (Correctional Facility) |
| 6216 | Building Maintenance Worker (Correctional Facility) |
| 2245 | Butcher–Meat Cutter II (Correctional Facility) |
| 6483 | Carpenter I (Correctional Facility) |
| 6474 | Carpenter II (Correctional Facility) |
| 6471 | Carpenter III (Correctional Facility) |
| 2015 | Chief Assistant General Manager, Prison Industries |
| 4110 | Chief, Day Labor Programs (Correctional Facility) |
| 9344 | Chief Dentist, Correctional Facility |
| 2578 | Chief Deputy, Clinical Services, Correctional Facility |
| 6699 | Chief Engineer I (Correctional Facility) |
| 7547 | Chief Medical Officer, Correctional Facility |

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|---|---|
| 6754 | Chief of Plant Operation I (Correctional Facility) |
| 6751 | Chief of Plant Operation II (Correctional Facility) |
| 6748 | Chief of Plant Operation III (Correctional Facility) |
| 9267 | Chief Physician and Surgeon, Correctional Facility |
| 7612 | Chief Psychiatrist, Correctional Facility |
| 9859 | Chief Psychologist, Correctional Facility |
| 7146 | Chief, Quality Assurance, Prison Industries |
| 9279 | Clinical Dietician, Correctional Facility |
| 9293 | Clinical Laboratory Technologist, Correctional Facility |
| 4132 | Construction Supervisor (Correctional Facility) |
| 4107 | Construction Supervisor I (Correctional Facility) |
| 4108 | Construction Supervisor II (Correctional Facility) |
| 4109 | Construction Supervisor III (Correctional Facility) |
| 2187 | Cook I (Correctional Facility) |
| 2186 | Cook II (Correctional Facility) |
| 7208 | Correctional Business Manager I, Department of Corrections |
| 4744 | Correctional Business Manager II, Department of Corrections |
| 4910 | Correctional Health Services Administrator I, Correctional Facility |
| 4912 | Correctional Health Services Administrator II, Correctional Facility |
| 6304 | Correctional Plant Manager I, Department of Corrections |
| 6305 | Correctional Plant Manager II, Department of Corrections |
| 6303 | Correctional Plant Supervisor, Department of Corrections |
| 9296 | Dental Assistant, Correctional Facility |
| 9298 | Dental Hygienist, Correctional Facility |
| 9299 | Dental Laboratory Technician, Correctional Facility |
| 9268 | Dentist, Correctional Facility |
| 7200 | Dry Cleaning Plant Supervisor |
| 6544 | Electrician I (Correctional Facility) |
| 6538 | Electrician II (Correctional Facility) |
| 6534 | Electrician III (Correctional Facility) |
| 6916 | Electronics Technician (Correctional Facility) |

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|---|---|
| 6865 | Equipment Maintenance Supervisor (Correctional Facility) |
| 2153 | Food Administrator I (Correctional Facility) |
| 2147 | Food Administrator II (Correctional Facility) |
| 2150 | Food Manager (Correctional Facility) |
| 2196 | Food Service Worker I (Correctional Facility) |
| 2195 | Food Service Worker II (Correctional Facility) |
| 6955 | Fusion Welder (Correctional Facility) |
| 6628 | Glazier (Correctional Facility) |
| 0743 | Groundskeeper (Correctional Facility) |
| 6826 | Heavy Equipment Mechanic (Correctional Facility) |
| 6379 | Heavy Truck Driver (Correctional Facility) |
| 9307 | Hospital Aid, Correctional Facility |
| 7218 | Industrial Supervisor, Prison Industries (Bindery) |
| 0648 | Industrial Supervisor, Prison Industries (Crop Farm) |
| 0682 | Industrial Supervisor, Prison Industries (Dairy) |
| 7204 | Industrial Supervisor, Prison Industries (Dental Laboratory) |
| 7198 | Industrial Supervisor, Prison Industries (Fabric Products) |
| 7211 | Industrial Supervisor, Prison Industries (Knit Goods Finishing) |
| 7210 | Industrial Supervisor, Prison Industries (Knitting Mill) |
| 2109 | Industrial Supervisor, Prison Industries (Laundry) |
| 7215 | Industrial Supervisor, Prison Industries (Maintenance and Repair) |
| 7197 | Industrial Supervisor, Prison Industries (Mattress and Bedding) |
| 7191 | Industrial Supervisor, Prison Industries (Metal Fabrication) |
| 7216 | Industrial Supervisor, Prison Industries (Printing) |
| 7207 | Industrial Supervisor, Prison Industries (Shoe Manufacturing) |
| 7206 | Industrial Supervisor, Prison Industries (Shoes and Boots, Lasting to Packing) |
| 7321 | Industrial Supervisor, Prison Industries (Silkscreen) |

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|---|---|
| 7192 | Industrial Supervisor, Prison Industries (Tool and Die) |
| 7179 | Industrial Supervisor, Prison Industries (Upholstery) |
| 7178 | Industrial Supervisor, Prison Industries (Wood Products) |
| 2006 | Janitor (Correctional Facility) |
| 2005 | Janitor Supervisor I (Correctional Facility) |
| 2004 | Janitor Supervisor II (Correctional Facility) |
| 2000 | Janitor Supervisor III (Correctional Facility) |
| 9265 | Laboratory Assistant, Correctional Facility |
| 2727 | Language, Speech and Hearing Specialist |
| 2114 | Laundry Supervisor I (Correctional Facility) |
| 2111 | Laundry Supervisor II (Correctional Facility) |
| 2117 | Laundry Worker (Correctional Facility) |
| 6867 | Lead Automobile Mechanic (Correctional Facility) |
| 0720 | Lead Groundskeeper (Correctional Facility) |
| 0718 | Lead Groundskeeper I (Correctional Facility) |
| 2952 | Librarian (Correctional Facility) |
| 6643 | Locksmith I (Correctional Facility) |
| 6801 | Machinist (Correctional Facility) |
| 6941 | Maintenance Mechanic (Correctional Facility) |
| 6617 | Mason (Correctional Facility) |
| 1508 | Materials and Stores Supervisor I (Correctional Facility) |
| 1505 | Materials and Stores Supervisor II (Correctional Facility) |
| 8217 | Medical Technical Assistant, Correctional Facility |
| 9273 | Nurse Anesthetist, Correctional Facility |
| 9353 | Nurse Instructor, Correctional Facility |
| 9278 | Nurse Practitioner, Correctional Facility |
| 9280 | Occupational Therapist, Correctional Facility |
| 7971 | Optometrist, Correctional Facility |
| 6528 | Painter I (Correctional Facility) |
| 6524 | Painter II (Correctional Facility) |
| 6521 | Painter III (Correctional Facility) |
| 7199 | Pest Control Technician (Correctional Facility) |
| 9281 | Physical Therapist I, Correctional Facility |

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|---|---|
| 9342 | Physical Therapist II, Correctional Facility |
| 9269 | Physician and Surgeon, Correctional Facility |
| 6550 | Plumber I (Correctional Facility) |
| 6594 | Plumber II (Correctional Facility) |
| 6545 | Plumber III (Correctional Facility) |
| 7972 | Podiatrist (Correctional Facility) |
| 1575 | Prison Canteen Manager I |
| 1576 | Prison Canteen Manager II |
| 7158 | Prison Industries Administrator |
| 7157 | Prison Industries Manager (General) |
| 7164 | Prison Industries Manager (Metal Products) |
| 7165 | Prison Industries Manager (Textile Products) |
| 7163 | Prison Industries Manager (Wood Products) |
| 0679 | Prison Industries Superintendent I (Agriculture) |
| 0617 | Prison Industries Superintendent II (Agriculture) |
| 7217 | Prison Industries Superintendent II (Bindery) |
| 7109 | Prison Industries Superintendent I (Coffee Roasting and Grinding) |
| 7203 | Prison Industries Superintendent I (Dental Laboratory) |
| 7202 | Prison Industries Superintendent II (Dental Laboratory) |
| 7170 | Prison Industries Superintendent II (Detergent) |
| 7350 | Prison Industries Superintendent I (Egg Production) |
| 7194 | Prison Industries Superintendent I (Fabric Products) |
| 7195 | Prison Industries Superintendent II (Fabric Products) |
| 7351 | Prison Industries Superintendent I (Fiberglass Products) |
| 7352 | Prison Industries Superintendent I (Furniture Refurbishing) |
| 7209 | Prison Industries Superintendent II (Knitting Mill) |
| 2108 | Prison Industries Superintendent II (Laundry) |
| 7154 | Prison Industries Superintendent II (Maintenance and Repair) |
| 7196 | Prison Industries Superintendent II (Mattress and Bedding) |
| 7189 | Prison Industries Superintendent I (Metal Products) |

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| 7190 | Prison Industries Superintendent II (Metal Products) |
| 7214 | Prison Industries Superintendent II (Printing) |
| 7205 | Prison Industries Superintendent II (Shoe Manufacturing) |
| 7320 | Prison Industries Superintendent I (Silkscreen) |
| 7319 | Prison Industries Superintendent II (Silkscreen) |
| 7175 | Prison Industries Superintendent I (Wood Products) |
| 7172 | Prison Industries Superintendent II (Wood Products) |
| 4760 | Procurement and Services Officer I (Correctional Facility) |
| 4761 | Procurement and Services Officer II (Correctional Facility) |
| 7162 | Product Engineering Technician, Prison Industries |
| 7156 | Production Manager I, Prison Industries |
| 1793 | Property Controller I (Correctional Facility) |
| 1794 | Property Controller II (Correctional Facility) |
| 9282 | Psychiatric Social Worker, Correctional Facility |
| 9283 | Psychologist–Clinical, Correctional Facility |
| 9284 | Psychology Associate, Correctional Facility |
| 9354 | Psychology Internship Director, Correctional Facility |
| 9285 | Psychometrist, Correctional Facility |
| 9274 | Public Health Nurse I, Correctional Facility |
| 9345 | Public Health Nurse II, Correctional Facility |
| 7145 | Quality Assurance Manager, Prison Industries |
| 3080 | Quality Control Technician, Prison Industries (Cleaning Products) |
| 9315 | Radiologic Technologist, Correctional Facility |
| 9286 | Recreation Therapist, Correctional Facility |
| 6715 | Refrigeration Engineer (Correctional Facility) |
| 9275 | Registered Nurse, Correctional Facility |
| 2734 | Resource Specialist, Special Education |
| 9316 | Respiratory Care Practitioner, Correctional Facility |
| 9854 | School Psychologist |
| 2077 | Seamer (Correctional Facility) |

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|---|---|
| 9348 | Senior Clinical Laboratory Technologist, Correctional Facility |
| 9266 | Senior Laboratory Assistant, Correctional Facility |
| 2945 | Senior Librarian (Correctional Facility) |
| 8215 | Senior Medical Technical Assistant |
| 9346 | Senior Occupational Therapist, Correctional Facility |
| 9270 | Senior Psychiatrist, Correctional Facility (Specialist) |
| 9271 | Senior Psychiatrist, Correctional Facility (Supervisor) |
| 9289 | Senior Psychologist, Correctional Facility |
| 9287 | Senior Psychologist, Correctional Facility (Specialist) |
| 9288 | Senior Psychologist, Correctional Facility (Supervisor) |
| 9350 | Senior Radiologic Technologist, Correctional Facility (Specialist) |
| 9351 | Senior Radiologic Technologist, Correctional Facility (Supervisor) |
| 7562 | Sheet Metal Worker (Correctional Facility) |
| 6211 | Skilled Laborer (Correctional Facility) |
| 9911 | Social Worker, Youth Authority |
| 9272 | Staff Psychiatrist, Correctional Facility |
| 9290 | Staff Psychologist—Clinical, Correctional Facility |
| 6713 | Stationary Engineer (Correctional Facility) |
| 6718 | Stationary Engineer Apprentice (Four—Year Program) (Correctional Facility) |
| 6557 | Steamfitter Supervisor (Correctional Facility) |
| 3082 | Substitute Academic Teacher (Correctional Facility) |
| 9349 | Supervising Clinical Laboratory Technologist, Correctional Facility |
| 2183 | Supervising Cook I (Correctional Facility) |
| 2182 | Supervising Cook II (Correctional Facility) |
| 0716 | Supervising Groundskeeper II (Correctional Facility) |
| 2044 | Supervising Housekeeper I (Correctional Facility) |
| 2940 | Supervising Librarian (Correctional Facility) |
| 9276 | Supervising Psychiatric Nurse, Correctional Facility |

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| 9291 | Supervising Psychiatric Social Worker I, Correctional Facility |
| 9292 | Supervising Psychiatric Social Worker II, Correctional Facility |
| 9317 | Supervising Registered Nurse I, Correctional Facility |
| 9318 | Supervising Registered Nurse II, Correctional Facility |
| 9319 | Supervising Registered Nurse III, Correctional Facility |
| 9910 | Supervising Social Worker I, Youth Authority |
| 9908 | Supervising Social Worker II, Youth Authority |
| 2305 | Supervisor of Academic Instruction (Correctional Facility) |
| 6763 | Supervisor of Building Trades (Correctional Facility) |
| 2384 | Supervisor of Commercial Diver Training |
| 2303 | Supervisor of Correctional Education Programs |
| 2370 | Supervisor of Vocational Instruction |
| 9277 | Surgical Nurse I, Correctional Facility |
| 9329 | Surgical Nurse II, Correctional Facility |
| 3073 | Teacher (Adaptive Physical Education) (Correctional Facility) |
| 2286 | Teacher (Cerebral Palsied Children) (Correctional Facility) |
| 2287 | Teacher (Elementary—Multiple Subjects) (Correctional Facility) |
| 2288 | Teacher (Emotionally/Learning Handicapped) (Correctional Facility) |
| 3075 | Teacher (English Language Development) (Correctional Facility) |
| 2297 | Teacher (Ethnic Studies) (Correctional Facility) |
| 2289 | Teacher (Family Life Education) (Correctional Facility) |
| 2373 | Teacher (Hearing Impaired) (Correctional Facility) |
| 2284 | Teacher (High School—Arts and Crafts) (Correctional Facility) |
| 2285 | Teacher (High School—Business Education) (Correctional Facility) |
| 3074 | Teacher (High School—English/Language Arts) (Correctional Facility) |

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| 3076 | Teacher (High School—Foreign Language) (Correctional Facility) |
| 2290 | Teacher (High School—General Education) (Correctional Facility) |
| 2291 | Teacher (High School—Home Economics) (Correctional Facility) |
| 3077 | Teacher (High School—Mathematics) (Correctional Facility) |
| 2294 | Teacher (High School—Music) (Correctional Facility) |
| 2295 | Teacher (High School—Physical Education) (Correctional Facility) |
| 3078 | Teacher (High School—Science) (Correctional Facility) |
| 3079 | Teacher (High School—Social Science) (Correctional Facility) |
| 2298 | Teacher (Librarian) (Correctional Facility) |
| 2292 | Teacher (Mentally Retarded Children) (Correctional Facility) |
| 2371 | Teacher (Speech Development and Correction) (Correctional Facility) |
| 6400 | Teaching Assistant (Correctional Facility) |
| 7201 | Tobacco Factory Superintendent |
| 7560 | Tractor Operator—Laborer (Correctional Facility) |
| 6382 | Truck Driver (Correctional Facility) |
| 6772 | Utility Shops Supervisor (Correctional Facility) |
| 2387 | Vocational Instructor (Airframe Mechanics) (Correctional Facility) |
| 2853 | Vocational Instructor (Animal Husbandry) (Correctional Facility) |
| 2396 | Vocational Instructor (Auto Body and Fender Repair) (Correctional Facility) |
| 2398 | Vocational Instructor (Auto Mechanics) (Correctional Facility) |
| 2399 | Vocational Instructor (Baking) (Correctional Facility) |
| 2400 | Vocational Instructor (Bookbinding) (Correctional Facility) |
| 2854 | Vocational Instructor (Building Maintenance) (Correctional Facility) |
| 2417 | Vocational Instructor (Carpentry) (Correctional Facility) |

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| 2419 | Vocational Instructor (Commercial Diver Training) (Correctional Facility) |
| 2855 | Vocational Instructor (Computer and Related Technologies) (Correctional Facility) |
| 2420 | Vocational Instructor (Cosmetology) (Correctional Facility) |
| 2422 | Vocational Instructor (Culinary Arts) (Correctional Facility) |
| 2869 | Vocational Instructor (Dental Technology) (Correctional Facility) |
| 2856 | Vocational Instructor (Diesel Mechanics) (Correctional Facility) |
| 2423 | Vocational Instructor (Dog Grooming and Handling) (Correctional Facility) |
| 2425 | Vocational Instructor (Drycleaning Works) (Correctional Facility) |
| 2857 | Vocational Instructor (Drywall Installer/Taper) (Correctional Facility) |
| 2426 | Vocational Instructor (Electrical Work) (Correctional Facility) |
| 2428 | Vocational Instructor (Electronics) (Correctional Facility) |
| 2688 | Vocational Instructor (Eyewear Manufacturing) (Correctional Facility) |
| 2429 | Vocational Instructor (Fire Science) (Correctional Facility) |
| 2858 | Vocational Instructor (Floor Cover Layer) (Correctional Facility) |
| 2431 | Vocational Instructor (Furniture Refinishing and Repair) (Correctional Facility) |
| 2432 | Vocational Instructor (Garment Making) (Correctional Facility) |
| 2433 | Vocational Instructor (Heavy Equipment Repair) (Correctional Facility) |
| 2597 | Vocational Instructor (Household Appliance Repair) (Correctional Facility) |
| 2598 | Vocational Instructor (Industrial Arts) (Correctional Facility) |
| 2599 | Vocational Instructor (Instrument Repair) (Correctional Facility) |
| 2600 | Vocational Instructor (Janitorial Service) (Correctional Facility) |

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| 2601 | Vocational Instructor (Landscape Gardening) (Correctional Facility) |
| 2611 | Vocational Instructor (Laundry Work) (Correctional Facility) |
| 2614 | Vocational Instructor (Machine Shop Practice) (Correctional Facility) |
| 2615 | Vocational Instructor (Masonry) (Correctional Facility) |
| 2619 | Vocational Instructor (Meat Cutting) (Correctional Facility) |
| 2627 | Vocational Instructor (Mechanical Drawing) (Correctional Facility) |
| 2628 | Vocational Instructor (Merchandising) (Correctional Facility) |
| 2630 | Vocational Instructor (Mill and Cabinet Work) (Correctional Facility) |
| 2674 | Vocational Instructor (Office Machine Repair) (Correctional Facility) |
| 2849 | Vocational Instructor (Office Services and Related Technologies) (Correctional Facility) |
| 2640 | Vocational Instructor (Offset Printing) (Correctional Facility) |
| 2644 | Vocational Instructor (Painting) (Correctional Facility) |
| 2645 | Vocational Instructor (Plastering) (Correctional Facility) |
| 2661 | Vocational Instructor (Plumbing) (Correctional Facility) |
| 2665 | Vocational Instructor (Powerplant Mechanics) (Correctional Facility) |
| 2666 | Vocational Instructor (Printing) (Correctional Facility) |
| 2667 | Vocational Instructor (Radiologic Technology) (Correctional Facility) |
| 2668 | Vocational Instructor (Refrigeration and Air–conditioning Repair) (Correctional Facility) |
| 2850 | Vocational Instructor (Roofer) (Correctional Facility) |
| 2669 | Vocational Instructor (Sewing Machine Repair) (Correctional Facility) |
| 2670 | Vocational Instructor (Sheet Metal Work) (Correctional Facility) |

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| 2671 | Vocational Instructor (Shoemaking) (Correctional Facility) |
| 2672 | Vocational Instructor (Silk Screening Process) (Correctional Facility) |
| 2851 | Vocational Instructor (Small Engine Repair) (Correctional Facility) |
| 2673 | Vocational Instructor (Storekeeping and Warehousing) (Correctional Facility) |
| 5415 | Vocational Instructor (Telemarketing/Customer Service) (Correctional Facility) |
| 2675 | Vocational Instructor (Upholstering) (Correctional Facility) |
| 2676 | Vocational Instructor (Vocational Nursing) (Correctional Facility) |
| 2677 | Vocational Instructor (Welding) (Correctional Facility) |
| 1504 | Warehouse Manager I (Correctional Facility) |
| 1502 | Warehouse Manager II (Correctional Facility) |
| 6221 | Warehouse Worker (Correctional Facility) |
| 6724 | Water and Sewage Plant Supervisor (Correctional Facility) |
| 2311 | Youth Authority Teacher |

(b) In addition, "state safety member" shall also include officers and employees of the Department of Corrections, the Department of the Youth Authority, or the Prison Industry Authority in any classification of Vocational Instructor, Industrial Supervisor, Industrial Superintendent, Assistant Industrial Superintendent, or Production Manager II (Prison Industries) that is established on or after January 1, 1984, if the Department of Personnel Administration and the State Personnel Board approve the inclusion of the classification.

(c) "State safety member" shall also include officers and employees in parenthetical specialty classes when the core class has already been expressly included in the state safety membership category if the Department of Personnel Administration and the State Personnel Board approve the inclusion of the classifications. The inclusion shall not be effective until notice of the inclusion has been received by the board.

(d) Any of these officers or employees in employment on the operative date of an amendment to this section and who becomes a state safety member as a result of that amendment, may elect by a writing filed with the board prior to 90 days after notification by the board, to be restored to his or her previous status as a state industrial member. Upon the filing of the election the member shall cease to

be a state safety member, and his or her rights and obligations shall be restored prospectively and retroactively to the operative date of that amendment.

SEC. 4. Section 20903 of the Government Code is amended to read:

20903. Notwithstanding any other provisions of this part, when the governing body of a contracting agency determines that because of an impending curtailment of, or change in the manner of performing service, the best interests of the agency would be served, a local member shall be eligible to receive additional service credit if the following conditions exist:

(a) The member is employed in a job classification, department, or other organizational unit designated by the governing body of the contracting agency and retires within any period designated in and subsequent to the effective date of the contract amendment provided the period is not less than 90 days nor more than 180 days.

(b) The governing body transmits to the retirement fund an amount determined by the board which is equal to the actuarial equivalent of the difference between the allowance the member receives after the receipt of service credit under this section and the amount he or she would have received without that service credit. The transfer to the retirement fund shall be made in a manner and time period acceptable to the employer and the board.

(c) The governing body shall certify that it is electing to exercise the provisions of this section, because of impending mandatory transfers, demotions, and layoffs that constitute at least one percent of the job classification, department or organizational unit as designated by the governing board, resulting from the curtailment of, or change in the manner of performing, its services.

(d) The governing body shall certify that it is its intention at the time that this section is made operative that if any early retirements are granted after receipt of service credit pursuant to this section, that any vacancies thus created or at least one vacancy in any position in any department or other organizational unit shall remain permanently unfilled thereby resulting in an overall reduction in the work force of the department or organizational unit.

The amount of service credit shall not be more than two years regardless of credited service and shall not exceed the number of years intervening between the date of his or her retirement and the date he or she would be required to be retired because of age.

A governing body that elects to make the payment prescribed by subdivision (b) shall make the payment with respect to all eligible employees who retire during the specified period.

This section shall not be applicable to any member otherwise eligible if the member receives any unemployment insurance payments during the specified period.

Any member who qualifies under this section, upon subsequent reentry to this system shall forfeit the service credit acquired under this section.

This section shall not apply to any member who is not employed by the contracting agency during the period designated in subdivision (a) and who has less than five years of service credit.

This section shall not apply to any contracting agency unless and until the agency elects to be subject to the provision of this section by amendment to its contract made in the manner prescribed for approval of contracts, except an election among the employees is not required, or, in the case of contracts made after September 29, 1979, by express provision in the contract making the contracting agency subject to the provisions of this section.

Notwithstanding Section 20790, an election to become subject to this section shall not exclude an agency from the definition of "employer" for purposes of Section 20790.

The board, on or before June 30, 1998, shall report to the Governor and the Legislature on the extent to which the provisions of this section are utilized by contracting agencies and any resulting personnel costs or savings by those agencies.

This section shall remain in effect until January 1, 1999, and as of that date is repealed, unless a later enacted statute, which is chaptered before that date deletes or extends that date.

SEC. 4.5. Section 21074 of the Government Code is amended to read:

21074. (a) A state member who became subject to the Second Tier shall be retired for service upon his or her written application to the board if he or she has attained age 55 and is credited with 10 years of state service.

(b) A state member who elected coverage under Section 21077, shall be retired for service upon his or her written application to the board if he or she has attained age 50 and is credited with five years of state service. No benefit shall be payable for service rendered under the Second Tier retirement formula unless the member has rendered 10 years of state service except as provided in subdivision (c).

(c) Notwithstanding subdivision (a) or (b), a state member in the Second Tier who is credited with five years of state service prior to January 1, 1985, may retire with less than 10 years of state service upon his or her written application to the board if he or she has attained age 50.

SEC. 5. Section 21151 of the Government Code is amended to read:

21151. (a) Any patrol, state safety, state industrial, state peace officer/firefighter, or local safety member incapacitated for the performance of duty as the result of an industrial disability shall be retired for disability, pursuant to this chapter, regardless of age or amount of service.

(b) This section also applies to local miscellaneous members if the contracting agency employing those members elects to be subject to this section by amendment to its contract.

(c) This section also applies to state miscellaneous members employed by the Department of Justice who perform the duties now performed in positions with the class title of Criminalist (Class Code 8466), or Senior Criminalist (Class Code 8478), or Criminalist Supervisor (Class Code 8477), or Criminalist Manager (Class Code 8467), Latent Print Analyst I (Class Code 8460), Latent Print Analyst II (Class Code 8472), or Latent Print Supervisor (Class Code 8473), and state miscellaneous members employed by the Department of the California Highway Patrol who perform the duties now performed in positions with the class title of Communications Operator I, California Highway Patrol (Class Code 1663), Communications Operator II, California Highway Patrol (Class Code 1664), Communications Supervisor I, California Highway Patrol (Class Code 1662), or Communications Supervisor II, California Highway Patrol (Class Code 1665), and state miscellaneous members whose disability resulted under the conditions specified in Sections 20046.5 and 20047.

SEC. 6. Section 21221 of the Government Code is amended to read:

21221. A retired person may serve without reinstatement from retirement or loss or interruption of benefits provided by this system, as follows:

(a) As a member of any board, commission, or advisory committee, upon appointment by the Governor, the Speaker of the Assembly, the President pro Tempore of the Senate, director of a state department, or the governing board of the contracting agency. However, the appointment shall not be deemed employment within the meaning of Division 4 (commencing with Section 3200) and Division 4.5 (commencing with Section 6100) of the Labor Code, and shall not provide a basis for the payment of workers' compensation to a retired state employee or to his or her dependents.

(b) As a school crossing guard.

(c) As a juror or election officer.

(d) As an elective officer on and after September 15, 1961. However, all rights and immunities which may have accrued under Section 21229 as it read prior to that section's repeal during the 1969 Regular Session of the Legislature are hereby preserved.

(e) As an appointive member of the governing body of a contracting agency. However, the compensation for that office shall not exceed one hundred dollars ($100) per month.

(f) Upon appointment by the Legislature, or either house, or a legislative committee to a position deemed by the appointing power to be temporary in nature.

(g) Upon employment by a contracting agency to a position found by the governing body, by resolution, to be available because of a

leave of absence granted to a person on payroll status for a period not to exceed one year and found by the governing body to require specialized skills. The temporary employment shall be terminated at the end of the leave of absence. Appointments under this section shall be reported to the board and shall be accompanied by the resolution adopted by the governing body.

(h) Upon appointment by the governing body of a contracting agency to a position deemed by the governing body to be of a limited duration and requiring specialized skills or during an emergency to prevent stoppage of public business. These appointments, in addition to any made pursuant to Section 21224, shall not exceed a total for all employers of 960-hours in any calendar year. When an appointment is expected to, or will, exceed 960-hours in any calendar year, the governing body shall request approval from the board to extend the temporary employment. The governing body shall present a resolution to the board requesting action to allow or disallow the employment extension. The resolution shall be presented prior to the expiration of the 960-hour maximum for the calendar year. The appointment shall continue until notification of the board's decision is received by the governing body. The appointment shall be deemed approved if the board fails to take action within 60 days of receiving the request. Appointments under this subdivision may not exceed a total of one year.

(i) Upon appointment by the Administrative Director of the Courts to the position of Court Security Coordinator, a position deemed temporary in nature and requiring the specialized skills and experience of a retired professional peace officer.

SEC. 7. Section 21296 of the Government Code is amended and renumbered to read:

21423. The disability retirement pension, for service subject to Section 21353, for a member whose effective date of retirement is on or after the operative date of the amendments to this section at the 1972 Regular Session shall be such an amount as with that portion of his or her annuity provided by his or her accumulated normal contributions, will make his or her disability retirement allowance equal:

(a) Ninety percent of one-fiftieth of his or her final compensation multiplied by the number of years of service credited to him or her.

(b) If the disability retirement allowance computed under subdivision (a) does not exceed one-third of his or her final compensation, 90 percent of one-fiftieth of his final compensation multiplied by the number of years of service which would be creditable to him or her were his or her service to continue until attainment by him or her of age 60, but in that case the retirement allowance shall not exceed one-third of final compensation.

Subdivision (b) is not applicable to members who are not entitled, at the time of retirement, to be credited with at least 10 years of state service.

SEC. 8. Section 21451 of the Government Code is amended to read:

21451. In lieu of the retirement allowance for his or her life alone, a member or retired member may elect, or revoke or change a previous election prior to the approval of the previous election, to have the actuarial equivalent of his or her retirement allowance as of the date of retirement applied to a lesser retirement allowance, in accordance with one of the optional settlements specified in this article. The election or revocation or change thereof, with respect to a member subject to Section 21624 at retirement, shall apply to all of the retirement allowance, if, at the effective date of retirement, the member has no spouse, children or dependent parents who would qualify for an allowance under Section 21624 after the death of the member; or, if at retirement there are persons who would so qualify, then the election, or revocation, or change thereof, with respect to any optional settlement other than optional settlement one, shall apply only to the portion of the allowance that exceeds the amount of the allowance payable to the survivor.

An actuarial equivalent under this article may be adjusted by the board for the intervals and upon the effective dates determined by the board.

SEC. 8.2. Section 21493 of the Government Code is amended to read:

21493. (a) If a person had no beneficiary designation in effect on the date of death, any benefit payable shall be paid to the survivors of the person in the following order:

(1) The decedent's spouse.

(2) The decedent's natural or adopted children, including a natural child adopted by another who meets any of the following criteria:

(A) The natural parent and adopted child lived together at any time as parent and child.

(B) The natural parent was married to or was cohabitating with the other natural parent at the time the child was conceived and died before the birth of the child.

(C) The child was adopted by the spouse of either of the natural parents or after the death of either of the natural parents.

(D) The child is a natural child adopted by another as that phrase is defined or construed by the Probate Code.

(3) The decedent's parents.

(4) The decedent's brothers and sisters.

(b) If a deceased person had no effective beneficiary designation and there are no survivors in the groups specified in subdivision (a) who are entitled to the benefit under this section, the benefit shall be paid to the estate of the decedent, if the estate is either probated or subject to probate. Any benefit payable by this system may be paid either to the estate or to the duly authorized representative or representatives of the estate upon receipt by this system of a court

order appointing an executor, administrator, or personal representative.

(c) If there are no survivors in the groups specified in subdivision (a) and the estate of the person described in subdivision (b) does not require probate, irrespective of whether probate is filed, the benefit shall be paid directly to the decedent's trust.

(d) If there are no survivors in the groups specified in subdivision (a) and the estate of the person described by subdivision (b) does not require probate, irrespective of whether probate is filed, and the decedent has not established a trust as described by subdivision (c), the benefit shall be paid directly to the surviving next of kin in the following order.

(1) Stepchildren.

(2) Grandchildren, including stepgrandchildren.

(3) Nieces and nephews.

(4) Great grandchildren.

(5) Cousins.

(e) For purposes of determining the application of subdivisions (b), (c), and (d) the amount of the benefit payable from this system shall not be included in calculating the worth of the estate.

(f) For purposes of this section, the term "stepchild" shall mean a person who had a regular parent-child relationship with the deceased person.

SEC. 8.4. Section 21494 of the Government Code is amended to read:

21494. If, upon the death of a person there is a valid beneficiary designation on file with the board naming the decedent's estate as beneficiary, and the estate will be probated, benefits shall be paid to the estate or to the duly authorized representative or representatives of the estate upon receipt by this system of a court order appointing an executor, administrator, or personal representative.

If the deceased person had a will, but the estate does not require probate, benefits may, in the judgment of the board, be paid to the beneficiary or beneficiaries, as specified in the will, notwithstanding any other provision of law.

If the deceased person left no will but had a trust, but the estate does not require probate, benefits may, in the judgment of the board, be paid to the successor trustee as named in the trust.

If the deceased person left no will or trust and the estate does not require probate, but the decedent designated his or her estate as the beneficiary, the benefit shall be paid to the next of kin pursuant to Section 21493.

SEC. 8.6. Section 21497 of the Government Code is amended to read:

21497. If the total value of the benefit to be paid pursuant to Section 21493, 21494, or 21506 is less than an amount determined by the board, the benefit may be paid to the first member of the entitled class of beneficiaries who files a claim. If the total value of the benefit

pursuant to any of these sections exceeds the amount established by the board but the number of qualifying beneficiaries under these sections is such that any individual benefit will be less than ten dollars ($10), the board shall limit the number of beneficiaries so that no individual's benefit will be less than ten dollars ($10). The board shall determine the recipients on the basis of the order in which claims are made.

SEC. 8.8. Section 21506 of the Government Code is amended to read:

21506. Any monthly allowance payable to a person, that had accrued and remained unpaid at the time of his or her death, or any uncashed warrant issued prior to the date of death of the person that has been returned to this system, or any balance of prepaid complementary health premiums received pursuant to Section 21691 or prepaid complementary annuitant health plan premiums received pursuant to Section 22810.1, shall be paid in the following order:

(a) In the event of the death of a retired person, to one of the following:

(1) The beneficiary entitled to payment in accordance with an optional settlement chosen by the member.

(2) The survivor entitled to payment of the survivor continuance benefit provided under Section 21624.

(3) The beneficiary entitled to receive the lump-sum death benefit provided upon death of a retired person if the person had not chosen an optional settlement and there was no survivor who was entitled to receive the survivor continuance benefit.

(b) In the event of the death of a person receiving a survivor benefit, that benefit shall be paid to the beneficiary designated by the survivor of a member under Section 21491.

(c) If there is no beneficiary entitled to receive payment under either subdivision (a) or (b), the benefit shall be paid to either the estate of the deceased person or the duly authorized representative or representatives of the estate upon receipt by this system of a court order appointing an executor, administrator, or personal representative. If the estate does not require probate and the deceased person had a trust, benefits may, in the judgment of the board, be paid to the successor trustee as named in the trust.

(d) In the event there is no beneficiary entitled to receive payment of benefits under subdivision (a), (b), or (c), the benefits shall be paid to the surviving next of kin of the person pursuant to the order of distribution specified in Section 21493.

SEC. 9. Section 21674 of the Government Code is amended to read:

21674. (a) Investment fund options under subdivision (a) of Section 21672 shall be provided through a written interagency agreement between the board and the Department of Personnel Administration.

(b) Participating employers, other than the state, shall enter into a written contractual agreement with the board.

(c) Employees participating under the deferred compensation program shall enter into written salary reduction agreements with their employers, for the purpose of making deferrals or for annuity contracts.

SEC. 10. Chapter 18 (commencing with Section 21700) is added to Part 3 of Division 5 of Title 2 of the Government Code, to read:

CHAPTER 18. CALIFORNIA PUBLIC EMPLOYEES RETIREMENT SYSTEM SCHOOL EMPLOYEES ALTERNATIVE SYSTEM

21700. The board may establish a plan for classified school employees who are excluded from membership in this system pursuant to Section 20305. The plan shall be made available under terms and conditions established by the board, except to the extent participation is subject to any memorandums of understanding between the employer and the employees.

21701. The plan shall be designed and implemented to comply with pertinent provisions of the federal Internal Revenue Code and federal Internal Revenue Service regulations and guidelines.

21702. Notwithstanding any other provision of law, the board may establish a plan fund, and retain a bank or trust company to serve as repository of the fund. The board may also retain a bank or trust company to serve as a custodian for safekeeping, recordkeeping, delivery, securities valuation, investment performance reporting, or other services in connection with investment of the fund. The board has exclusive control of the administration and investment of the fund. Notwithstanding Section 13340, all moneys in the plan fund are continuously appropriated, without regard to fiscal years, for the purposes of this chapter.

21703. All development and administration costs of the alternative retirement plan authorized by this chapter shall be paid by employers and plan participants.

SEC. 10.5. Section 22013.3 of the Government Code is amended to read:

22013.3. “Policeman” as used in this part also includes persons employed in positions set forth in Section 20403; provided, such designation is not contrary to any definition, ruling or regulation relating to the term “policeman” issued by the federal agency for the purposes of Section 218(d)(5)(A) of the Social Security Act.

SEC. 11. Section 22013.6 of the Government Code is amended to read:

22013.6. “Policeman” as used in this part also includes persons employed in positions set forth in Section 20438 and Section 31469.4; provided such designation is not contrary to any definition, ruling, or regulation relating to the term “policeman” issued by the federal

agency for the purposes of Section 218(d)(5)(A) of the Social Security Act.

This section shall be operative only in counties which elect to terminate the social security coverage of county probation officers and juvenile hall employees in that county and elect to include such officers and employees within the safety membership retirement category.

SEC. 12. Section 22013.7 of the Government Code is amended to read:

22013.7. “Policeman” or “fireman,” as used in this part, also includes persons employed in positions set forth in Section 20414; provided, such designation is not contrary to any definition, ruling, or regulation relating to the term “policeman” or “fireman” issued by the federal agency for the purposes of Section 218(d)(5)(A) of the Social Security Act (42 U.S.C. Sec. 418(d)(5)(A)).

SEC. 13. Section 22013.75 of the Government Code is amended to read:

22013.75. “Policeman,” as used in this part, also includes persons employed in positions identified in Section 20407, provided that designation is not contrary to any definition, ruling, or regulation relating to the term “policeman” issued by the federal agency for the purposes of Section 218(d)(5)(A) of the Social Security Act (42 U.S.C. Sec. 418(d)(5)(A)).

SEC. 14. Section 22013.76 of the Government Code is amended to read:

22013.76. “Policeman,” as used in this part, also includes persons employed in positions identified in Section 20408, provided that designation is not contrary to any definition, ruling, or regulation relating to the term “policeman” issued by the federal agency for the purposes of Section 218(d)(5)(A) of the Social Security Act (42 U.S.C. Sec. 418(d)(5)(A)).

SEC. 15. Section 22013.8 of the Government Code is amended to read:

22013.8. “Policeman” as used in this part also includes persons employed in classifications listed in Section 20405, if that designation is not contrary to any definition, ruling, or regulation relating to the term “policeman” issued by the federal agency for the purposes of Section 218(d)(5)(A) of the Social Security Act.

SEC. 16. Section 22013.85 of the Government Code is amended to read:

22013.85. “Policeman” as used in this part also includes persons employed in the classification listing in Section 20411, provided the designation is not contrary to any definition, ruling, or regulation relating to the term “policeman” issued by the federal agency for the purposes of Section 218(d)(5)(A) of the Social Security Act.

SEC. 17. Section 22013.9 of the Government Code is amended to read:

22013.9. “Policeman” as used in this part also includes persons employed in positions set forth in Section 20406; provided, that such designation is not contrary to any definition, ruling, or regulation relating to the term “policeman” issued by the federal agency for the purposes of Section 218(d)(5)(A) of the Social Security Act.

SEC. 18. Section 22013.95 of the Government Code is amended to read:

22013.95. (a) “Policeman” or “fireman,” as used in this part, also includes persons employed in positions set forth in Section 20393, provided, such designation is not contrary to any definition, ruling, or regulation relating to the term “policeman” or “fireman” issued by the federal agency for the purposes of Section 218(d)(5) (A) of the Social Security Act (42 U.S.C. Sec. 418(d)(5)(A)).

(b) This section shall not become operative until such time as a ruling or regulation authorizing the inclusion of persons employed in classifications set forth in Section 20393 within the definition of “policeman” or “fireman” is issued by the federal agency for purposes of Section 218(d)(5)(A) of the Social Security Act (42 U.S.C. Sec. 418(d)(5)(A)).

SEC. 19. Section 22013.955 of the Government Code is amended to read:

22013.955. “Policeman” as used in this part also includes persons employed in the classifications set forth in Section 20397, provided the designation is not contrary to any definition, ruling, or regulation relating to the term “policeman” issued by the federal agency for the purposes of Section 218(d)(5)(A) of the Social Security Act.

SEC. 20. Section 22013.96 of the Government Code is amended to read:

22013.96. (a) “Policeman” or “fireman,” as used in this part, also includes persons employed in positions set forth in Section 20395, as amended in 1984, provided, such designation is not contrary to any definition, ruling, or regulation relating to the term “policeman” or “fireman” issued by the federal agency for the purposes of Section 218(d)(5)(A) of the Social Security Act (42 U.S.C. Sec. 418(d)(5)(A)).

(b) This section shall not become operative until such time as a ruling or regulation authorizing the inclusion of persons employed in classifications set forth in Section 20395 within the definition of “policeman” or “fireman” is issued by the federal agency for purposes of Section 218(d)(5)(A) of the Social Security Act (42 U.S.C. Sec. 418(d)(5)(A)).

SEC. 21. Section 22013.97 of the Government Code is amended to read:

22013.97. (a) “Policeman” or “fireman,” as used in this part, also includes persons employed in positions set forth in Sections 20398; provided, such designation is not contrary to any definition, ruling, or regulation relating to the term “policeman” or “fireman” issued

by the federal agency for the purposes of Section 218(d)(5)(A) of the Social Security Act (42 U.S.C. Sec. 418(d)(5)(A)).

(b) This section shall not become operative until such time as a ruling or regulation authorizing the inclusion of persons employed in classifications set forth in Section 20398 within the definition of "policeman" or "fireman" is issued by the federal agency for purposes of Section 218(d)(5)(A) of the Social Security Act (42 U.S.C. Sec. 418(d)(5)(A)).

SEC. 22. Section 22013.10 of the Government Code is amended to read:

22013.10. (a) "Policeman" as used in this part, also includes persons employed in positions set forth in Section 20415; provided, such designation is not contrary to any definition, ruling, or regulation relating to the term "policeman" issued by the federal agency for the purposes of Section 218(d)(5)(A) of the Social Security Act (42 U.S.C. Sec. 418(d)(5)(A)).

(b) This section shall not become operative until such time as a ruling or regulation authorizing the inclusion of persons employed in classifications set forth in Section 20415 of the Government Code within the definition of "policeman" is issued by the federal agency for purposes of Section 218(d)(5)(A) of the Social Security Act (42 U.S.C. Sec. 418(d)(5)(A)).

SEC. 23. Section 22013.11 of the Government Code is amended to read:

22013.11. "Policeman" or "fireman," as used in this part, also includes persons employed in positions set forth in Sections 20409 and 20410; provided, such designation is not contrary to any definition, ruling, or regulation relating to the term "policeman" or "fireman" issued by the federal agency for the purposes of Section 218(d)(5)(A) of the Social Security Act (42 U.S.C. Sec. 418(d)(5)(A)).

SEC. 24. Section 22014.3 of the Government Code is repealed.

SEC. 25. Section 22014.5 of the Government Code is amended to read:

22014.5. "Fireman" as used in this part includes persons employed as "campus firefighter" and other persons employed in positions described in Section 20412; provided, such designation is not contrary to any definition, ruling or regulation relating to the term "fireman" issued by the federal agency for the purposes of Section 218(d)(5)(A) of the Social Security Act.

SEC. 26. Section 22754 of the Government Code is amended to read:

22754. As used in this part the following definitions, unless the context otherwise requires, shall govern the interpretation of terms:

(a) "Board" means the Board of Administration of the Public Employees' Retirement System.

(b) "Employee" means:

(1) Any officer or employee of the State of California or of any agency, department, authority, or instrumentality of the state including the University of California, or any officer or employee who is a local or school member of the Public Employees' Retirement System employed by a contracting agency which has elected to be or otherwise has become subject to this part, or who is a member or retirant of the State Teachers' Retirement System employed by an employer who has elected to become subject to this part, or who is an employee or annuitant of a special district or county subject to the County Employees Retirement Law of 1937 (Chapter 3 (commencing with Section 31450) of Part 3 of Division 4 of Title 3) which has elected to become subject to this part, or who is an employee or annuitant of a special district, as defined in subdivision (i), which has elected to become subject to this part, except persons employed on an intermittent, irregular or less than half-time basis, or employees similarly situated, or employees in respect to whom contributions by the state for any type of plan or program offering prepaid hospital and medical care are otherwise authorized by law.

(2) Any officer or employee who participates in the retirement system of a contracting agency as defined in paragraph (2) of subdivision (g) which has elected to become subject to this part, except persons employed less than half-time or who are otherwise determined to be ineligible.

(3) Any annuitant of the Public Employees' Retirement System employed by a contracting agency as defined in subdivision (g) that has elected to become subject to this part who is a person retired under Section 21228.

(c) "Carrier" means a private insurance company holding a valid outstanding certificate of authority from the Insurance Commissioner of the state, a medical society or other medical group, a nonprofit hospital service plan qualifying under Chapter 11A (commencing with Section 11491) of Part 2 of Division 2 of the Insurance Code, or nonprofit membership corporation lawfully operating under Section 9200 or Section 9201 of the Corporations Code, or a health care service plan as defined under subdivision (f) of Section 1345 of the Health and Safety Code, or a health maintenance organization approved under Title XIII of the federal Public Health Services Act, which is lawfully engaged in providing, arranging, paying for, or reimbursing the cost of personal health services under insurance policies or contracts, medical and hospital service agreements, membership contracts, or the like, in consideration of premiums or other periodic charges payable to it.

(d) "Health benefits plan" means any program or entity that provides, arranges, pays for, or reimburses the cost of health benefits.

(e) "Annuitant" means:

(1) Any person who has retired within 120 days of separation from employment and who receives any retirement allowance under any

state or University of California retirement system to which the state was a contributing party.

(2) A family member receiving an allowance as the survivor of an annuitant who has retired as provided in paragraph (1), or as the survivor of a deceased employee under Section 21541, 21546, or 21571 or similar provisions of any other state retirement system.

(3) Any employee who has retired under the retirement system provided by a contracting agency as defined in paragraph (2) of subdivision (g) and who receives a retirement allowance from that retirement system, or a surviving family member who receives the retirement allowance in place of the deceased.

(4) Any person who was a state member for 30 years or more and who, at the time of retirement, was a local member employed by a contracting agency.

(f) (1) "Family member" means an employee's or annuitant's spouse and any unmarried child (including an adopted child, a stepchild, or recognized natural child who lives with the employee or annuitant in a regular parent-child relationship). The board shall, by regulation, prescribe age limits and other conditions and limitations pertaining to unmarried children.

(2) Notwithstanding paragraph (1), this paragraph shall apply only to state employees, as defined in Section 19815, that are in State Bargaining Unit 5. "Family member" only means an employee's legal spouse and any unmarried child, adopted child, stepchild, recognized natural child, or legal ward living with the employee in a regular parent-child relationship.

(g) "Contracting agency" means:

(1) Any contracting agency as defined in Section 20022, any county or special district subject to the County Employees Retirement Law of 1937 (Chapter 3 (commencing with Section 31450) of Part 3 of Division 4 of Title 3), and any special district, school district, county board of education, personnel commission of a school district or a county superintendent of schools.

(2) Any public body or agency of, or within California not covered by the Public Employees' Retirement System or subject to the County Employees Retirement Law of 1937 (Chapter 3 (commencing with Section 31450) of Part 3 of Division 4 of Title 3), which provides a retirement system for its employees funded wholly or in part by public funds.

(h) "Employer" means the state, any contracting agency employing an employee, and any agency which has elected to become subject to this part pursuant to Section 22856.

(i) "Special district" means a nonprofit, self-governed public agency, within the State of California and comprised solely of public employees, performing a governmental rather than proprietary function.

SEC. 27. Section 22810 of the Government Code is amended to read:

22810. An employee or annuitant may, under eligibility rules as the board may by regulation prescribe, enroll in an approved health benefits plan, either as an individual or for self and family, except that an employee of a contracting agency, or an annuitant who retired while an employee or is the beneficiary of an employee, may enroll only in a health benefits plan for which the board has contracted. With respect to state officers and employees, the regulations shall provide that every employee or annuitant enrolled in a health benefits plan shall be enrolled in a major medical plan or shall provide for inclusion of major medical benefits in health benefit plans. The regulations may provide for the exclusion of employees on the basis of the nature and type of their employment or conditions pertaining thereto, but not limited to, short-term appointments, seasonal or intermittent employment, and employment of a like nature, but no employee or group of employees shall be excluded solely on the basis of the hazardous nature of the employment. Any enrollment shall authorize the deduction of the contributions required under this part from the employee's or annuitant's salary or retirement allowance.

Any annuitant who satisfies the requirement to retire within 120 days of separation as specified in subdivision (e) of Section 22754 and who, at the time he or she became an annuitant was enrolled in a health benefits plan under state or federal provisions, may continue his or her enrollment as provided by regulations of the board, without discrimination as to premium rates or benefit coverage. Any permanent intermittent employee and any employee who works less than full time may continue his or her enrollment while retired from state employment if (1) he or she was enrolled prior to separation from state employment and (2) he or she lost eligibility prior to separation but continued his or her coverage under the federal law.

Any annuitant who becomes entitled to the survivor allowance under Section 21571 at age 62 and who was enrolled in a health benefits plan at the death of the member on whose account the survivor allowance is payable may enroll in a health benefits plan without discrimination as to premium rates or benefit coverage.

In the case of the death of an employee after application has been filed for coverage of family members but prior to the effective date of coverage, family members shall be deemed to have been covered on the date of the death of the employee, and if one of the family members is an annuitant he or she shall be enrolled as if the coverage applied for were continued without discrimination as to premium rates or benefit coverage.

The board shall, by rule and regulation, make whatever provisions it deems necessary to eliminate or minimize the impact of adverse selection which would affect any plans approved or contracted for, because of enrollment of annuitants.

SEC. 28. Section 22810.3 of the Government Code is amended to read:

22810.3. Any complementary annuitant premium or any balance of unpaid health plan premiums received pursuant to Section 22810.1 which has accrued and remained unpaid at the time of the death of an annuitant shall be paid in accordance with the sequence prescribed in Section 21506.

SEC. 29. Section 22811.5 of the Government Code is amended to read:

22811.5. No person who, as a result of a remarriage on or after January 1, 1985, of an annuitant subject to Section 21635, would otherwise become a family member, may be enrolled as a family member. No person who, as a result of a remarriage on or after the operative date of the statute adding Section 21551, of an annuitant subject to subdivision (a) of Section 21551, would otherwise become a family member, may be enrolled as a family member.

SEC. 30. Section 22811.6 of the Government Code is amended to read:

22811.6. (a) A family member who receives an allowance as the survivor of a state member, as provided by Section 21547, may elect to continue to be covered by the health benefits plan and dental care plan. A family member who elects to continue coverage shall assume payment of the total premium costs plus an additional 2 percent of the contribution payments to cover the administrative costs incurred by the board and the Department of Personnel Administration in administering this section.

(b) No person, other than the unborn child of the member, may be enrolled as a family member when a monthly allowance under Section 21547 is payable unless the person is enrolled as a family member on the date of the death of the member.

SEC. 31. Section 22818 of the Government Code is amended to read:

22818. Notwithstanding any other provision of this chapter, an employee who is receiving full-time service credit pursuant to Section 20900 may continue enrollment in a health benefits plan.

SEC. 32. Section 22823 of the Government Code is amended to read:

22823. No person shall be eligible to be enrolled in a health benefits plan pursuant to this part as a family member if he or she becomes a family member of an eligible person who is either (a) a surviving spouse of a deceased member of the Public Employees' Retirement System or (b) a recipient, as a surviving spouse of a deceased retired member of the Public Employees' Retirement System, of a retirement allowance pursuant to Section 21456, 21457, or 21458.

SEC. 33. Section 22825.5 of the Government Code is amended to read:

22825.5. (a) A contracting agency may amend its contract to provide that subdivision (c) of Section 22825.3 is applicable to employees who retire for service and who are first employed after

the operative date of the amendment if the contract is amended to contain the following provisions:

(1) The employer's contribution for each officer, employee, or annuitant shall be based upon the principles prescribed for state officers, employees, or annuitants in Section 22825.1.

(2) The employer has, in the case of employees represented by a bargaining unit, reached an agreement with that bargaining limit to be subject to this section for the period specified in that memorandum of understanding.

(3) The employer certifies to the board, in the case of employees not represented by a bargaining unit, that there is no applicable memorandum of understanding.

(4) The credited service for purposes of determining the percentage of employer contributions applicable under this section shall mean service as defined in Section 20069, except that not less than five years of that service shall be performed entirely with that employer.

(5) The employer agrees to provide the board any information requested necessary to implement this section.

(b) This section shall apply to the Calaveras County Water District, the Alameda County Water District, the City of Fontana, and the City of Lincoln.

SEC. 34. Section 22832 of the Government Code is amended to read:

22832. The contributions required of a contracting agency, along with contributions withheld from salaries of its employees, shall be forwarded monthly, no later than the 10th day of the month for which the contribution is due, and shall be deposited in the Public Employees' Health Care Fund and credited to either the Public Employees' Health Care Fund or the Public Employees' Contingency Reserve Fund in the proportions specified by Section 22826. The county superintendent of schools shall draw requisitions against the county school service fund and the funds of the respective school districts for amounts equal to the total of the employers' contributions required to be paid from the county school service fund and from the funds of the districts, and the contributions deducted from the compensation of employees paid from the funds. The amounts shall be deposited in the county treasury to the credit of the contract retirement fund established under Section 20617.

The county superintendent thereafter shall draw his or her requisitions against the fund in favor of the board which when allowed by the county auditor shall constitute warrants against the funds and shall forward the warrants to the board in accordance with this section.

SEC. 35. Section 22850.2 of the Government Code is amended to read:

22850.2. When a hospital becomes a contracting agency pursuant to subdivision (p) of Section 20057, its employees shall be deemed

city employees for purposes of this part until such hospital enacts its own resolution or acts officially to terminate its subjection to this part.

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# CONCURRENT AND JOINT RESOLUTIONS

## 1997–98

## REGULAR SESSION

### 1997 RESOLUTION CHAPTERS

## RESOLUTION CHAPTER 1

Assembly Concurrent Resolution No. 7—Relative to Random Acts of Kindness Week.

[Filed with Secretary of State January 31, 1997.]

WHEREAS, Random acts of kindness are the sweet or lovely things that we do for no reason except that, momentarily, the best of our humanity has sprung into full bloom; and

WHEREAS, In 1982, an individual named Ann Herbert penned a very special phrase—"Practice random acts of kindness and senseless acts of beauty;" and

WHEREAS, "Random Acts of Kindness Week" is a way to counteract random acts of violence; and

WHEREAS, Since the first Random Acts of Kindness Week in February 1995, the nonprofit Random Acts of Kindness Foundation has been formed, which orchestrates the annual awareness campaign each February; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the week of February 10 through February 16, 1997, shall be recognized as Random Acts of Kindness Week, and that the public be urged to observe this week with appropriate individual or group activities; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

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## RESOLUTION CHAPTER 2

Assembly Concurrent Resolution No. 11—Relative to Vietnamese Community Week.

[Filed with Secretary of State February 11, 1997.]

WHEREAS, The Vietnamese community in Santa Clara County has grown to become an important and vibrant element of northern California, accounting for over 200,000 residents, who have continued to make a positive and enduring impact on the quality of life enjoyed by all the people of Santa Clara County, as well as on the cultural, economic, and historical fabric of the entire region; and

WHEREAS, Each year, the Vietnamese Tet Festival in Santa Clara County is organized by the Coalition of Nationalist Vietnamese Organizations of northern California, to celebrate Tet, the Vietnamese lunar new year; and

WHEREAS, The festival, which is held at the Santa Clara County Fairgrounds, attracts as many as 50,000 people annually; and

WHEREAS, The Tet Festival will be held from February 7 through February 9, 1997, and will include many events commemorating this important holiday, including a festival opening ceremony, and a wide range of exhibits of cultural interest; and

WHEREAS, The 1997 Tet Festival in Santa Clara County promises to be one of the largest Tet Festival outside Vietnam; now, therefore, be it

*Resolved, by the Assembly of the State of California, the Senate thereof concurring,* That the week of February 2 to February 9, 1997, shall be proclaimed "Vietnamese Community in Santa Clara County Week" to honor the contributions and achievements of the state's Vietnamese population; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

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## RESOLUTION CHAPTER 3

Senate Concurrent Resolution No. 6—Relative to the California State Parent Teacher Association.

[Filed with Secretary of State February 11, 1997.]

WHEREAS, The California State Parent Teacher Association (PTA), the oldest and largest child advocacy organization in the state, has worked on behalf of California's children for 100 years; and

WHEREAS, Since its founding in 1897, the California State PTA has grown to more than one million members working to improve the lives of all children, youth, and families; and

WHEREAS, Throughout its history, the California State PTA has been dedicated to promoting public policies that improve the education and well-being of all children and youth; and

WHEREAS, The California State PTA actively supports and promotes parent and public involvement in the schools and in the community; and

WHEREAS, The California State PTA continues to assist parents in developing the skills they need to nurture their children and to work cooperatively with schools and communities on issues that affect children; and

WHEREAS, The California State PTA celebrates its 100th anniversary on February 17, 1997; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That, in recognition of the 100th anniversary of the founding of the California State Parent Teacher Association, February 1997 be designated Parent Teacher Association Month in California; and be it further

*Resolved,* That the Legislature commends, applauds, and honors the California State Parent Teacher Association for its 100 years of caring about children, youth, and families; and be it further

*Resolved,* That the Secretary of the Senate transmit a copy of this resolution to the President of the California State Parent Teacher Association.

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## RESOLUTION CHAPTER 4

Assembly Concurrent Resolution No. 8—Relative to a Day of Remembrance.

[Filed with Secretary of State February 18, 1997.]

WHEREAS, President Franklin Delano Roosevelt signed Executive Order 9066 on February 19, 1942, pursuant to which 120,000 Japanese Americans and legal resident aliens were incarcerated in internment camps during World War II; and

WHEREAS, The alleged basis for incarceration was military necessity; and

WHEREAS, President Gerald Ford formally rescinded Executive Order 9066 on February 19, 1976; and

WHEREAS, Congress adopted legislation on July 21, 1980, which was signed by President Jimmy Carter on July 31, 1980, to establish the Commission on Wartime Relocation and Internment of Civilians (CWRIC) to investigate the claim that the incarceration of Japanese Americans and legal resident aliens during World War II was justified by military necessity; and

WHEREAS, The CWRIC held 20 days of hearings on this matter and heard from over 750 witnesses; and

WHEREAS, The CWRIC published its findings in a report entitled "Personal Justice Denied"; and

WHEREAS, The CWRIC principal finding and conclusion was "the promulgation of Executive Order 9066 was not justified by military necessity, and the decision which followed from it—detention, ending detention, and ending exclusion—were not driven by analysis of military conditions. The broad historical causes which shaped these decisions were race prejudice, war hysteria, and a failure of political leadership"; and

WHEREAS, Congress adopted H.R. 442, the Civil Liberties Act of 1988 (P.L. 100-383), which stated "for these fundamental violations of the basic civil liberties and constitutional rights of these individuals of Japanese ancestry, the Congress apologized on behalf of the Nation"; and

WHEREAS, President Ronald Reagan signed the Civil Liberties Act of 1988 into law on August 10, 1988, at which time he proclaimed, "This is a great day for America"; and

WHEREAS, The Civil Liberties Act of 1988 established the Civil Liberties Public Education Fund, the purpose of which is "to sponsor research and public educational activities and to publish and distribute the hearings, findings, and recommendations of the CWRIC so that the events surrounding the exclusion, forced removal, and internment of civilians and permanent resident aliens of Japanese ancestry will be remembered, and so that the causes and circumstances of this and similar events may be illuminated and understood"; and

WHEREAS, The Civil Liberties Public Education Fund will sponsor a National Day of Remembrance on February 19, 1997, to reflect upon the effects of Executive Order 9066, the activities of the CWRIC, and the adoption of the Civil Liberties Act of 1988; and

WHEREAS, The purpose of the National Day of Remembrance is to educate the public about the lessons learned from the internment to ensure that it never happens again; and

WHEREAS, Organizations will sponsor related activities in the following areas of California: Sacramento, San Francisco, Los Angeles, San Jose, San Diego, Gilroy, Monterey, San Benito, Salinas, and Watsonville; and

WHEREAS, February 19, 1997, will mark the 55-year anniversary of the date Executive Order 9066 was signed by President Franklin Delano Roosevelt; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Legislature of the State of California declares February 19, 1997, as a Day of Remembrance in this state in order to increase public awareness of the events surrounding the internment of Japanese Americans during World War II; and be it further

*Resolved,* That the Legislature encourages the annual observance of this day in future years; and be it further

*Resolved,* The Chief Clerk of the Assembly transmit copies of this resolution to the Governor of the State of California.

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## RESOLUTION CHAPTER 5

Assembly Concurrent Resolution No. 13—Relative to American Heart Month.

[Filed with Secretary of State February 21, 1997.]

WHEREAS, Cardiovascular diseases are the leading cause of death in the United States, claiming the lives of more than 950,000, each year; and

WHEREAS, Cardiovascular diseases will cost this country an estimated two hundred fifty-nine billion one hundred million dollars ($259,100,000,000) in 1997 in medical and disability costs; and

WHEREAS, Cardiovascular disease is especially costly to American business due to the deaths of skilled employees between the ages of 35 and 64 years, where the loss of management and production skills are enormous; and

WHEREAS, In California, more than 140,000 deaths occur every year from heart disease, accounting for nearly 22 percent of all deaths; and

WHEREAS, Medical research continually seeks to reduce disability and death from heart attack, stroke, and other heart and blood vessel diseases. However, over 57 million Americans have some form of cardiovascular disease, ranging from congenital heart defects to high blood pressure and the hardening of the arteries; and

WHEREAS, Being physically active reduces your risk of heart disease. Inactivity may be just as dangerous as the other controllable risk factors for heart attack, such as smoking, high blood pressure, and high cholesterol; and

WHEREAS, Heart disease risk factors can be minimized by personal effort and public awareness. The American Heart Association recommends no more than 30 percent of daily calories come from fat, that people exercise at least 30 minutes most days of the week, and that tobacco products be avoided; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the month of February 1997 be recognized as American Heart Month in California, and that all Californians be encouraged to "get in on the action" for a healthier, stronger heart.

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## RESOLUTION CHAPTER 6

Assembly Concurrent Resolution No. 6—Relative to Parent-Teacher Involvement and Responsibility Week.

[Filed with Secretary of State February 25, 1997.]

WHEREAS, The California State Parent Teacher Association has demonstrated 100 years of dedication in promoting parent and public involvement in schools and communities; and

WHEREAS, The California State Parent Teacher Association has promoted the welfare of children and youth in homes, schools,

communities, and places of worship in California and has raised the standards of homelife; and

WHEREAS, The California State Parent Teacher Association has worked tirelessly to secure adequate laws for the care and protection of children and youth; and

WHEREAS, The California State Parent Teacher Association has developed united efforts by educators and the general public that will secure for all children and youth the highest advantages in physical, mental, social, and spiritual education; and

WHEREAS, More than one million parents and citizens have enlisted as active members of the California State Parent Teacher Association in 31 districts, 207 councils, and 3,986 associations; and

WHEREAS, Statistics show that children whose families provide a caring and supportive environment by getting involved in scholastic activities have a higher probability of success; and

WHEREAS, Parent and teacher cooperation in public schools will contribute significantly to the success of vocational training programs that will prepare California's pupils for the job market of the 21st century; and

WHEREAS, Teacher and parents ensure that effective and innovative classroom instruction is promoted in California; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Legislature hereby commends parents, grandparents, teachers, and citizens who have been involved in their schools and communities; and be it further

*Resolved,* That the Legislature of the State of California proclaims the week of March 3 through March 10, 1997, as Parent-Teacher Involvement and Responsibility Week, in honor of 100 years of outstanding contributions and valuable services provided by the members of the Parent Teacher Association in California; and be it further

*Resolved,* That Parent-Teacher Involvement and Responsibility Week is a call to action of would-be volunteers in every community across the state to provide youth with a healthy learning environment; and be it further

*Resolved,* That Parent-Teacher Involvement and Responsibility Week shall be an official effort to encourage more participation and volunteerism in California classrooms, schoolyards, homework centers, and libraries; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit a copy of this resolution to the Governor of the State of California.

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## RESOLUTION CHAPTER 7

Assembly Concurrent Resolution No. 9—Relative to Black History Month.

[Filed with Secretary of State February 28, 1997.]

WHEREAS, Americans of African descent helped develop our nation in countless ways, those recognized, unrecognized, and unrecorded; and

WHEREAS, The contributions of Black American citizens as scientists, inventors, educators, farmers, homemakers, and explorers of earth and sky have been recognized annually during Black History Month; and

WHEREAS, The history and contributions of Black American citizens were consistently overlooked and undervalued in the curricula of public educational institutions prior to the Civil Rights Act of 1964; and

WHEREAS, Carter Goodwin Woodson, a Black historian, recognized these accomplishments and, on February 7, 1926, created one of the cultural landmarks of contemporary America, "Negro History Week"; and

WHEREAS, In the 1960's, during the height of the Civil Rights Movement, "Negro History Week" was changed to "Black History Week," and in 1976 was expanded to "Black History Month" as part of the national Bicentennial Celebration; and

WHEREAS, Innumerable Black citizens have contributed to the history of California, including the first Black citizen elected to the California Legislature, former Assembly Member Frederick Roberts, who served his constituents from 1918 to 1934; and

WHEREAS, The annual theme for Black History Month asks all Americans to remember the contributions that African-American women and African-American men have made to this nation and this world, the battles fought, and the battles that must continue to be fought to ensure a place in history for African-American women and African-American men; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the month of February of each year be proclaimed as Black History Month; and be it further

*Resolved,* That each house of the Legislature commemorate Black History Month with appropriate, meaningful activities that recognize the contributions of Black Americans to their community, state, and nation; and be it further

*Resolved,* That the Chief Clerk of the Assembly prepare suitably prepared copies of this resolution for appropriate distribution.

# RESOLUTION CHAPTER 8

Senate Concurrent Resolution No. 5—Relative to Week of the School Administrator.

[Filed with Secretary of State March 5, 1997.]

WHEREAS, Approximately 15,000 certificated and classified school administrators work in California's public schools; and

WHEREAS, Nearly 60 percent of these administrators are principals and vice principals providing direct support for the educational programs at schoolsites; and

WHEREAS, Research has determined that one of the main attributes of effective schools is the competent leadership of principals; and

WHEREAS, Other certificated and classified administrators provide leadership and support for the educational program by developing and implementing the curriculum, selecting textbooks and instructional materials, recruiting, training, and evaluating classified and certificated staff, managing the budget and monitoring cost controls, implementing school board policies and complying with federal, state, and local regulations and laws, planning and maintaining school facilities, and providing transportation, nutrition, and social service programs to pupils and their families; and

WHEREAS, Research shows that efficient district-level administration improves teacher effectiveness; and

WHEREAS, Research shows that public school administration in California has become increasingly efficient and effective, with fewer administrators managing more schools with more pupils than in the past; and

WHEREAS, A school's administrative team includes confidential employees who perform and assist in the performance of many critical functions; and

WHEREAS, School administrators and confidential employees ensure that effective and innovative classroom instruction is promoted in every area of California; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the week of March 2 through March 8, 1997, be proclaimed the Week of the School Administrator, in honor of the many outstanding contributions and services provided by the administrative teams in California's public school districts; and be it further

*Resolved,* That the administrators of California's public schools be commended for their support of, and contributions to, quality education in the state.

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# RESOLUTION CHAPTER 9

Assembly Concurrent Resolution No. 10—Relative to the California Vietnam Veterans Memorial in Capitol Park.

[Filed with Secretary of State March 18, 1997.]

WHEREAS, The State of California has the largest United States veterans population in the nation, comprising some 3.3 million armed services veterans (12.3 percent of the nationwide veteran population of nearly 27 million) who represent an impressive one-fifth of the state's total population; and

WHEREAS, It is estimated that 20.6 million (77 percent) of the total veteran population alive today are wartime veterans, and, within California alone, nearly 300,000 of those veterans are disabled, and approximately one-eighth of these veterans have experienced substance abuse or post-traumatic stress disorders; and

WHEREAS, It is estimated that there are more than 3,000 American servicemen still prisoners of war (POW), missing in action (MIA), and unaccounted for in Vietnam and Korea; and

WHEREAS, According to figures from the 1996 California Department of Veterans Affairs, American participation and casualties from the following wars were estimated as: Mexican War (1846–48) 79,000 participants, 13,000 deaths in service; Indian Wars (1861–98) 106,000 participants, 1,000 deaths in service; United States Civil War (1861–65) 2,213,000 Union participants, 364,000 Union deaths in service, 1,000,000 Confederate participants, 134,000 Confederate deaths in service; Spanish-American War (1898–1902) 392,000 participants, 11,000 deaths in service; World War I (1917–18) 392,000 participants, 116,000 deaths in service; World War II (1940–45) 16,535,000 participants, 406,000 deaths in service; Korean War (1950–53) 5,764,143 participants, 33,651 deaths in service; Vietnam War (1964–73) 8,744,000 participants, 58,202 deaths in service; and the Persian Gulf War (1991) 467,539 participants, 148 deaths; and

WHEREAS, In times of peace, when the veteran's service is not needed, it is an unfortunate but irrevocable fact that Californians, like all other Americans, all too quickly forget that it is the courage and sacrifice of those veterans that preserve and maintain the freedom that we enjoy; and

WHEREAS, The practice of forgetting about our debt to our veterans took on an entirely different meaning when our Vietnam veterans returned home to discover, tragically, that not only did many Americans not want to honor and pay homage to them, indeed, many Americans wanted to forget them; and

WHEREAS, More than 350,000 California veterans served in Vietnam, which resulted in 40,000 of them being wounded and 5,822

being killed or missing in action, or more than 10 percent of the nation's total; and

WHEREAS, More California residents died in Vietnam than residents of any other state, and more Californians received the Medal of Honor, the Bronze Star, and the Purple Heart than veterans of any other state; and

WHEREAS, The Vietnam War divided Americans like no other event since the United States Civil War, and after nearly a decade of dissent and protest and of many Americans trying to forget the Vietnam War, many Americans ended up forgetting the Vietnam veterans who came home to no marching bands and no welcome home parades, and who went for years and years without any sort of positive recognition; and

WHEREAS, For many, many thousands of those veterans, the Vietnam War did not end, and has not ended, as they continue to fight their own personal war within themselves; and

WHEREAS, With the construction of the National Vietnam War Veterans Memorial in Washington, D.C., many Americans finally found the will to remember, and all the homage due the Vietnam veterans could finally be expressed; and

WHEREAS, In many ways, the national memorial has done more to heal the wounds of the Vietnam War than any proclamation, or any parade, could do, since the memorial serves as a tribute to the sacrifice, a recognition of the loss, and a symbol of the wound that we began to heal, and in simple terms, the memorial serves as a mourning place where Americans can come to physically touch the memory of loved ones they lost or strangers they honor for their sacrifices; and

WHEREAS, The history of the California Vietnam Veterans Memorial began when Herman Woods, a double amputee who served in the 1st Air Cavalry Division, United States Army (1970), returned to California from the dedication of the National Vietnam Veterans Memorial in our nation's capitol in Washington, D.C.; and

WHEREAS, Herman Woods began a grassroots effort to assist then Assembly Member Richard E. Floyd, a Korean War combat veteran, in passing Floyd's measure, Assembly Bill No. 650, which proposed that a California Vietnam Veterans Memorial be built entirely from private funds, and it was then that former Captain Brien Thomas "B.T." Collins, a United States Army veteran who was a member of the Green Berets, who served two tours of duty in Vietnam, who was wounded, and who also later served in the California State Assembly, became involved with the memorial and his tireless efforts were a driving force in the establishment and completion of the memorial prior to his early death; and

WHEREAS, The newly formed Vietnam Veterans Memorial Commission was comprised of nine veterans, eight of whom served in Vietnam and who included the following persons: Linda J. McClenahan, Chairperson; Leo K. Thorsness, Congressional Medal

of Honor winner and Vice Chairperson; Gregory C. Green, Treasurer; Abel A. Cota, Secretary; B.T. Collins, member; Don A. Drumheller, member; Jesse G. Ugalde, member; Senator Jim Ellis, member; Assembly Member Richard E. Floyd, member and author of Assembly Bill No. 650; and Jerri L. Dale, Executive Officer; led to the creation of the California Vietnam Veterans Memorial, the theme of which reflects "the overwhelming majority of those who were killed in Vietnam: 19-year old infantry soldiers, their youth, comradery, and fatigue of the war and [reflects] the American women who served," with the winning entry in the opening design competition being awarded to Michael Larson, a Marine Corps Vietnam veteran, and Thomas Chytrowski; and

WHEREAS, President Bill Clinton, in recently awarding the Presidential Medal of Freedom to former United States Senator Robert Dole, unveiled the winning design for still another memorial, this one a National World War II Memorial to pay homage to the 16 million men and women who served in that war; and

WHEREAS, For years and years, California has had plans for a memorial that will be privately financed, one that will honor all California veterans who have served in the armed services since statehood in 1850, a memorial that, hopefully, will be a reality by the close of 1997; and

WHEREAS, These monuments have revived California's interest in the sacrifice of all our veterans and have focused a renewed attention on our Vietnam veterans, many of whom, especially the homeless, simply have never had the resources to travel back to Washington, D.C. to visit the National Vietnam Veterans Memorial; and

WHEREAS, The Wall That Heals is a 250-foot wide replica of the National Memorial that travels all across America, giving veterans and nonveterans a chance to share a common bond of sacrifice with the 58,202 men and women who gave their lives in Vietnam; and

WHEREAS, The Wall That Heals brings the souls of those 58,202 back home to their buddies, their wives and husbands, parents, children, neighbors, and coworkers, and allows them to exist once more in the comfort and peace of familiar surroundings; and

WHEREAS, Assembly Member Richard E. Floyd has made arrangements for The Wall That Heals to be in Sacramento and in four additional sites in California from early February to March, 1997; and

WHEREAS, The Wall That Heals, like the memorial in Washington, D.C., transcends Vietnam by helping our nation renew its relationship with veterans of all wars, because viewers of the wall, from veterans to school children, will realize a deeper appreciation of the role that veterans have played throughout the history of our country; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That all Californians be encouraged to take part

in ceremonies concerning The Wall That Heals, including opening ceremonies, when it is in an area near them, and that all steps and measures necessary to inform all Californians as to the date of those ceremonies and locating where The Wall That Heals will be sited, be taken so that all Californians will be given an opportunity to remember and honor the service, the efforts, and the sacrifices of those veterans, and to pay homage to those veterans who are still alive; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit a suitably prepared copy of this resolution to the author for appropriate distribution.

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## RESOLUTION CHAPTER 10

Senate Concurrent Resolution No. 21—Relative to adult education.

[Filed with Secretary of State March 18, 1997.]

WHEREAS, Approximately 411 California adult schools serve the changing economic and cultural needs of a vigorous, expanding community; and

WHEREAS, Adult schools serve 1,400,000 California students; and

WHEREAS, Adult schools provide instruction to those in our state who need English-as-a-second-language and citizenship courses; and

WHEREAS, Adult schools are primary community resources for the teaching and instruction of adult family literacy; and

WHEREAS, Adult schools provide a way for adults to complete high school studies in their own time and pace; and

WHEREAS, Adult schools provide programs especially designed for older adult and disabled populations; and

WHEREAS, Adult schools provide vocational and job training for adults seeking career changes or enhancements; and

WHEREAS, Adult schools provide instruction for parents, ranging from prebirth classes through a wide spectrum of parent education courses; and

WHEREAS, Adult schools provide education services as called for by the Immigration Reform and Control Act, and for participants of the Greater Avenues for Independence (GAIN) program; and

WHEREAS, Adult schools provide for the unique needs of individuals in a diverse population; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the week of March 17 through March 21, 1997, be proclaimed California Adult Education Week, in honor of the many outstanding services and contributions provided by California Adult Schools; and be it further

*Resolved,* That the administrators, teachers, classified staffs, and students of California's adult schools be commended for their support of, and contributions to, quality education in the state.

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## RESOLUTION CHAPTER 11

Assembly Concurrent Resolution No. 18—Relative to Irish American Heritage Month.

[Filed with Secretary of State March 19, 1997.]

WHEREAS, There are now 44 million Irish Americans in the United States, representing one in every six persons in our country, and four million California Irish; and

WHEREAS, At least eight signers of the Declaration of Independence were of Irish origin, including John Hancock, who was descended from an Ulster family, and Matthew Thornton, James Smith, and George Taylor, who were Irish-born; and

WHEREAS, The Irish love of freedom played so integral a role in the fight for American independence that County Derry-born Charles Thompson made the first finished copy of the Declaration of Independence, John Nixon, whose father was born in County Wexford, was the first to read the document publicly, and John Dunlop, born in County Tyrone, printed the first copy. Edward Fox, a Dublin native, contributed almost a million dollars—a staggering sum in those days—thus playing a major role in the financing of the Continental Army, and died penniless because of his commitment; and

WHEREAS, Irish-born James Hoban and other Irish immigrants assisted in the construction of the United States Capitol; and

WHEREAS, Irish-born John Barry was the first naval hero of the American Revolution, and has been called the Father of the United States Navy; and

WHEREAS, Eighteen United States presidents have proudly proclaimed their Irish heritage; and

WHEREAS, Many Irish immigrants arrived in this country as slaves and indentured servants, and were driven from their own country by starvation, exile, and oppression, all of which they overcame; and

WHEREAS, Since the formation of this country, Irish immigrants were willing to take on the lowliest and most dangerous and back-breaking jobs, including building the eastern portion of the transcontinental railroad, digging the Chesapeake Bay, and working in the nation's coal mines, and Irish Americans continue to work toward the betterment of our country; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That March is hereby designated Irish American Heritage Month; and be it further

*Resolved,* That the Chief Clerk of the Assembly shall transmit copies of this resolution to the author for appropriate distribution.

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## RESOLUTION CHAPTER 12

Senate Concurrent Resolution No. 29—Relative to Camp Fire Boys and Girls: Absolutely Incredible Kids Day.

[Filed with Secretary of State March 21, 1997.]

WHEREAS, Camp Fire Boys and Girls is a national organization dedicated to promoting youth development, self-esteem, leadership, and community involvement; and

WHEREAS, Camp Fire Boys and Girls works to realize the dignity and worth of each individual and to eliminate human barriers based on all assumptions that prejudge individuals; and

WHEREAS, More than 117,000 youth throughout California, from kindergarten to grades 1 to 12, inclusive, are members of Camp Fire Boys and Girls; and

WHEREAS, Camp Fire Boys and Girls has provided a positive outlet for youth activities in the areas of recreation, education, the arts, camping, and outdoor skills; and

WHEREAS, Camp Fire Boys and Girls have created Absolutely Incredible Kids Day whereby adults around the nation are asked to write a letter to a child, whether the child is a son or daughter, grandchild, niece, nephew, neighbor, or any child who needs a friend; and

WHEREAS, Writing a letter to a child shows care and concern for his or her welfare; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the Legislature hereby declares March 20, 1997, to be Absolutely Incredible Kids Day.

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## RESOLUTION CHAPTER 13

Assembly Concurrent Resolution No. 16—Relative to Camp Fire Boys and Girls: Absolutely Incredible Kid Day.

[Filed with Secretary of State March 26, 1997.]

WHEREAS, Camp Fire Boys and Girls have designated March 20, 1997, as Absolutely Incredible Kid Day; and

WHEREAS, Camp Fire Boys and Girls have called American adults to action on March 20, 1997, to write a letter to a child or the children in their lives; and

WHEREAS, The simple step of writing a letter to a child could make a major impact on a child's life because words on paper permanently communicate our commitment to children; and

WHEREAS, Camp Fire Boys and Girls hope that on March 20, 1997, children will find letters on their pillows, in lunch boxes, on the refrigerators, in the mail, or anywhere else that children can find the letters; and

WHEREAS, Camp Fire Boys and Girls encourages letters to be written by grandparents, aunts, uncles, parents, siblings, neighbors, educators, mentors, and volunteers and encourages those individuals to read those letters to children, whether in person or over the telephone; and

WHEREAS, The lives of families in the 1990's are so hectic with both parents often working full time and overtime to meet the demands of their employers and to make ends meet; and

WHEREAS, Today many children live in single-parent families struggling to find enough hours in the day to keep their families going; and

WHEREAS, Each letter tells a child that he or she is important and loved and thus provides busy adults with an opportunity to tell children how they feel about them; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Legislature hereby declares March 20, 1997, to be Absolutely Incredible Kid Day.

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## RESOLUTION CHAPTER 14

Senate Concurrent Resolution No. 4—Relative to Medi-Cal program expenses.

[Filed with Secretary of State April 1, 1997.]

WHEREAS, The State of California has incurred substantial costs in the implementation of the Medi-Cal program for the treatment of tobacco-related diseases; and

WHEREAS, One member of the tobacco industry has recently agreed to make payments to other states and to limit future advertising activities in settlement of suits brought by those states to seek reimbursement of costs incurred by those states for the treatment of smoking-related diseases; and

WHEREAS, The recent agreement of one member of the tobacco industry and the activities attributed to some members of the tobacco industry can only lead to the conclusion that there is sufficient basis

on which to take legal action to seek compensation from the tobacco industry for the cost of treating those illnesses for which the tobacco industry must at least share in the responsibility; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the Attorney General is requested to bring suit against all tobacco companies for reimbursement for costs incurred by the state's Medi-Cal program due to smoking-related diseases; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the Attorney General.

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## RESOLUTION CHAPTER 15

Senate Concurrent Resolution No. 16—Relative to the Joint Legislative Committee on Prison Construction and Operations.

[Filed with Secretary of State April 1, 1997.]

WHEREAS, Public safety is a primary function and consideration of government. As evidenced by the overwhelming support for Proposition 184, the "Three Strikes Initiative" on the November 8, 1994, ballot, the people of the State of California are demanding that violent, serious, and repeat felons be incarcerated with longer sentences; and

WHEREAS, As a result of the passage of Proposition 184 and the recent enactment of other laws, the inmate population of the state prison system is projected to increase by unprecedented numbers. Upon completion of current authorized new prison construction projects, the Department of Corrections will be operating 34 state adult correctional facilities. In addition, the Department of the Youth Authority currently operates 11 state youth correctional facilities; and

WHEREAS, As evidenced by the recent defeat of Proposition 205, the "Youthful and Adult Offender Local Facilities Bond Act of 1996" on the November 5, 1996, ballot, the people of the State of California are unwilling to support financially the expansion of correctional facilities. Californians are demanding greater fiscal accountability for the operation of correctional facilities; and

WHEREAS, The most recent five-year facilities master plan by the Department of Corrections identifies a need for six new state prisons and one inmate conservation camp with the capacity to house approximately 27,600 additional felons. The total cost for these proposed projects is approximately one billion seven hundred million dollars ($1,700,000,000). This amount does not include the financing costs, which would roughly double the total final cost; and

WHEREAS, Controlling the rapid growth of corrections construction and operations costs is one of the greatest challenges facing this state. The total proposed budget for the Department of Corrections for the 1997–98 fiscal year is approximately three billion eight hundred million dollars ($3,800,000,000); and

WHEREAS, Although the Legislature first created the Joint Committee on Prison Construction and Operations by statute in 1982, and has reauthorized the committee several times, the committee was statutorily repealed on January 1, 1995. As of that date, the Senate created the Criminal Procedure Subcommittee on Prison Construction and Operations to continue to provide specific legislative oversight; and

WHEREAS, Section 7003 of the Penal Code requires the Department of Corrections to provide the Joint Legislative Committee on Prison Construction and Operations with the new prison site plans, project planning guide, and preliminary staffing ratios at least 30 days prior to submission of those plans to the State Public Works Board. Similarly, Section 7003.5 of the Penal Code requires the department to report to that committee biannually on areas being considered for new prison sites, the size of each facility planned, financing, and how each proposed site fits into the department's overall master plan; and

WHEREAS, In order to provide for joint legislative oversight of the state's fastest growing segment of government, and to ensure a sense of fiscal responsibility to the people of California, it is vital that the Legislature permanently reestablish the Joint Legislative Committee on Prison Construction and Operations; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the Joint Legislative Committee on Prison Construction and Operations is hereby created. The committee shall assume primary responsibility for providing legislative scrutiny over prison construction and operations; and be it further

*Resolved,* That the committee shall also investigate and make recommendations on inmate population management issues as they affect problems of overcrowding, recidivism, and successful return to society by inmates; and be it further

*Resolved,* That the committee shall consist of three Members of the Senate appointed by the Senate Committee on Rules, and three Members of the Assembly appointed by the Speaker of the Assembly. A Member of the Senate shall chair the committee. The chairperson shall appoint staff persons who shall be authorized to inspect prison facilities and departmental documents, except as otherwise provided by law; and be it further

*Resolved,* That the committee and its members shall have all of the rights, duties, and powers conferred upon investigating committees and their members by the Joint Rules of the Senate and Assembly as they are adopted and amended from time to time, which rules are

incorporated herein and made applicable to this committee and its members; and be it further

*Resolved,* That the Senate Committee on Rules may make money available from the Senate Operating Fund as it deems necessary for the expenses of the Joint Legislative Committee on Prison Construction and Operations and its members. Any expenditure of money shall be made in compliance with policies set forth by the Senate Committee on Rules and shall be subject to the approval of the Senate Committee on Rules; and be it further

*Resolved,* That the Joint Legislative Committee on Prison Construction and Operations shall, within 15 days of authorization and consistent with the normal annual appropriations process for funding legislative committees, present its initial budget to the Senate Committee on Rules for its review, comment, and approval; and be it further

*Resolved,* That the Joint Legislative Committee on Prison Construction and Operations shall submit a report at the end of each legislative session to the Legislature on its activities; and be it further

*Resolved,* That the Joint Legislative Committee on Prison Construction and Operations is authorized to act until June 30, 1998, at which time the committee's existence shall terminate.

*Resolved,* That the Secretary of the Senate transmit a suitably prepared copy of this resolution to the author for appropriate distribution.

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## RESOLUTION CHAPTER 16

Senate Concurrent Resolution No. 12—Relative to Women's History Month.

[Filed with Secretary of State April 4, 1997.]

WHEREAS, American women of every race, class, and ethnicity have participated in the founding and building of our nation and have played a critical role in shaping the economic, cultural, and social fabric of our society, not in the least of ways through their participation in the labor force, working both inside and outside the home; and

WHEREAS, Women have been leaders in every movement for social change, including their own movement for suffrage, the fight for emancipation, the struggle to organize labor unions, and the civil rights movement; and

WHEREAS, In light of these efforts and the achievements of all American women we take this opportunity to honor women and their contribution to the development of our society and our world; and

WHEREAS, The celebration of Women's History Month will provide an opportunity for schools and communities to focus attention on the historical role and accomplishments of the women of California and the United States, and for students, in particular, to benefit from an awareness of these contributions; and

WHEREAS, Women's History Month will include International Women's Day on March 8, originally proclaimed in 1910 to recognize and commemorate the valuable contributions women have made to the labor movement in improving working conditions and thus, bettering people's lives; and

WHEREAS, Women's History Month will be not only a call to acknowledge the outstanding American women whose names we know, but also a call to pay homage to the many women who have anonymously shaped our collective past; and

WHEREAS, The observance of Women's History Week was initiated by the Sonoma County Commission on the Status of Women in 1978, a celebration that evolved into Women's History Month, commemorated throughout the nation by schools, historians, and community groups; and

WHEREAS, The achievements of women who have gone before us will enable contemporary women and men to create tomorrow's history by working toward an end to physical and sexual violence against women, discrimination and harassment in employment, the relegation to poverty status of many women, and by advocating for the full participation of women in the economic and political arena, the provision of adequate child care, respect for those who choose homemaking and motherhood as their career, and equal access to all of the opportunities this great nation has to offer; and

WHEREAS, The story of the women's rights movement deserves telling because of the significance and scope of women's role in making history and shaping the cultural and societal makeup of California and the United States, and because it is a rich part of our common heritage, a story of gallantry and devotion to the belief that the opportunity for complete human dignity should not be denied to one-half of the state and the nation; and

WHEREAS, The National Women's History Project has adopted "A Fine and Long Tradition" as the 1997 theme for Women's History Month, inviting all Californians to see women's lives and accomplishments as an essential part of our national history, recognizing that history looks very different when the contributions, accomplishments, and perspectives of women are added to our shared legacy as Americans, thereby increasing our understanding of the world in which we live today and expanding our possibilities for the future; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the Legislature of the State of California takes pleasure in joining the California Commission on the Status of Women, the Sonoma County Commission on the Status of Women,

the Los Angeles County Commission for Women, and other city, county, and community commissions for women in California, in honoring the contributions of women, and proclaims the month of March 1997 as Women's History Month; and be it further

*Resolved,* That the Legislature of the State of California urges all Californians to join in the celebration of International Women's Day on March 8, 1997; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the Chair of the California Commission on the Status of Women, the Chair of the Sonoma County Commission on the Status of Women, and the National Women's History Project, for distribution to appropriate organizations.

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## RESOLUTION CHAPTER 17

Assembly Concurrent Resolution No. 15—Relative to Red Ribbon Week.

[Filed with Secretary of State April 8, 1997.]

WHEREAS, Californians for Drug-Free Youth, Inc. (CADFY), a statewide parent-community organization, the office of the Governor, the office of the Attorney General, the State Department of Alcohol and Drug Programs, the State Department of Education, the California Parent Teacher Association, and over 100 other statewide agencies, departments, and organizations are cosponsoring October 23 through October 31, 1997, as Red Ribbon Week; and

WHEREAS, Parents, youth, schools, businesses, law enforcement, religious institutions, service organizations, senior citizens, medical and military personnel, sports teams, and individuals throughout the State of California will demonstrate their commitment to drug-free, healthy lifestyles by wearing and displaying red ribbons during this weeklong celebration; and

WHEREAS, The theme of this year's effort is "BE HEALTHY AND DRUG FREE!"; and

WHEREAS, Drug abuse stands as one of the major challenges our state faces in securing a safe and healthy future for our children; and

WHEREAS, The objective of Red Ribbon Week, 1997, will be to promote this view though drug prevention, education, parental involvement, and communitywide support; and

WHEREAS, The Assembly of the State of California has further committed its resources to ensure the success of the Red Ribbon Week celebration; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Legislature does hereby proclaim its support for the Red Ribbon Week celebration by proclaiming

October 23 through October 31, 1997, as Red Ribbon Week; and be if further

*Resolved,* That the Legislature encourages all Californians to help build drug-free communities and to participate in drug prevention activities by making a visible statement that we are firmly committed to healthy, productive, drug-free lifestyles; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit a copy of this resolution to the Governor of the State of California, and to the author for appropriate distribution throughout the community.

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## RESOLUTION CHAPTER 18

Assembly Concurrent Resolution No. 34—Relative to NetDay.

[Filed with Secretary of State April 14, 1997.]

WHEREAS, The children of the United States deserve the finest preparation possible to face the demands of the world's changing information-based economy; and

WHEREAS, NetDay is a grassroots effort to provide elementary and secondary schools with the infrastructure needed to network computers in those schools and connect them with the Internet; and

WHEREAS, Labor and materials for the work done by NetDay are provided by volunteers and support from businesses, unions, parents, teachers, students, and school employees, thereby saving schools and taxpayers millions of dollars; and

WHEREAS, Students and schools benefit from significant NetDay corporate sponsorship and donations from hundreds of businesses and organizations throughout the nation who have contributed by sponsoring individual schools, providing wiring kits, and helping to design and test the networks; and

WHEREAS, NetDay activities nationwide will help elementary and secondary schools acquire educational technology, such as computer hardware, software, Internet and technical services, teaching aids, and training materials; and

WHEREAS, In 1996, more than 100,000 NetDay volunteers installed the wiring infrastructure necessary to efficiently and affordably connect 25,000 elementary and secondary schools nationwide to the information superhighway, bringing the children in those schools the educational benefits of contemporary technology; and

WHEREAS, NetDay organizers created a World Wide Web site which provides access to an on-line data base of elementary and secondary schools where individuals with a shared interest in upgrading technology in schools can locate each other and form lasting communities; and

WHEREAS, NetDay stresses educational opportunities for all children by reaching out to public and private schools in urban and rural communities of all income levels in an attempt to equalize access to current technology; and

WHEREAS, The relationships formed through NetDay activities and initiatives between schools and surrounding communities will last into the 21st century, and other communities are planning future NetDay activities that build and expand upon the initial achievements of the 1996 NetDay activities; and

WHEREAS, NetDay has substantially increased the visibility of educational technology issues, thus encouraging educators to use computers and related innovative and technology-based learning tools to teach the nation's children; and

WHEREAS, NetDay enables elementary and secondary schools to move into the information age through community and cyberspace-based action; and

WHEREAS, We should not limit the ability of any child of this nation to succeed; therefore, all of the nation's children should be given the opportunity to acquire computer skills; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Legislature of the State of California commends the organizers, sponsors, coordinators, and volunteers of NetDay for their actions; and be it further

*Resolved,* That it is the intent of the Legislature that NetDay should be used as a positive model in communities throughout the nation, and that NetDay should continue to assist students, parents, and schools across the nation, so that the nation's children may, by obtaining the benefits of computer networks and the Internet, strengthen their educational experiences and begin careers with more skills and opportunities, thus enabling them to compete more successfully in the global economy; and be it further

*Resolved,* That businesses, unions, parents, teachers, students, and school employees throughout California should consider organizing NetDay activities to provide similar opportunities for the children in their communities; and be it further

*Resolved,* That the Legislature supports NetDay's commitment to providing the nation's elementary and secondary schools with the technological infrastructure needed to help the nation's children succeed; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit a copy of this resolution to NetDay.

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## RESOLUTION CHAPTER 19

Assembly Concurrent Resolution No. 30—Relative to Mediation Week.

[Filed with Secretary of State April 15, 1997.]

WHEREAS, The legal needs of our society have increased dramatically; and

WHEREAS, In an effort to ameliorate these conditions, restore harmony, improve relations between citizens and within neighborhoods and families, and relieve the growing burden on our judiciary, many of our citizens have turned to dispute resolution services, with resultant social and economic benefits; and

WHEREAS, Mediation, which provides parties with a simplified and economical procedure for obtaining prompt and equitable resolution of their disputes and a greater opportunity to participate directly in resolving their disputes, has proven over the years to be one of the most effective of these alternative dispute resolution techniques; and

WHEREAS, California has had mandatory mediation of child custody and visitation disputes since 1981, and evaluations of these programs have found that mediation has resulted in the resolution of over two-thirds of the mediated disputes and achieved a high satisfaction rate among the participants; and

WHEREAS, Studies by the Rand Corporation and others show that the use of mediation and other appropriate alternative dispute resolution processes can reduce the time, cost, and stress of resolving disputes in many cases, both to disputants, by reducing costs for such things as expert witnesses and trial preparation, and to the justice system as a whole by as much threefold to fivefold over the cost of traditional court processing of civil cases; and

WHEREAS, The State Bar of California and many local bar associations are engaged in promoting the use of mediation and raising public consciousness about its merits, and are seeking to increase public use of, and support for, alternative dispute resolution applications; and, to that end, are cooperating in many activities to assist counties and dispute resolution providers in their efforts at serving citizens; and

WHEREAS, The State of California now has thousands of citizens trained as mediators and many agencies, organizations, and attorneys who specialize in providing related services and ready assistance to those in need of services; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Legislature hereby designates the week of March 16 to March 22, 1997, inclusive, as Mediation Week, in order to afford an opportunity for the citizens of California to become aware of the availability of mediation and other alternative dispute

resolution techniques as options for solving their legal problems, and to express sincere appreciation to our citizens who are working diligently in assisting fellow citizens and businesses in the resolution of conflict and the settlement of disputes; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit a copy of this resolution to the Governor of the State of California.

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## RESOLUTION CHAPTER 20

Assembly Concurrent Resolution No. 39—Relative to the Joint Rules of the Assembly and Senate for the 1997–98 Regular Session.

[Filed with Secretary of State April 15, 1997.]

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the following rule be adopted as a joint rule of the Assembly and Senate for the 1997–98 Regular Session:

### Conference Committee on Welfare Reform

28.2. (a) If the Assembly (if it is a Assembly bill) or the Senate (if it is an Senate bill) refuses to concur in amendments to a bill relating to welfare reform made by the other house, the bill shall be referred by the rules committee in the bill's house of origin to the conference committee established pursuant to subdivision (b) of this rule.

(b) A conference committee shall be appointed for each house to meet, consider, act, and report on the subject matter of any bill relating to welfare reform that is referred to the committee.

(c) In appointing the conference committee provided for by this rule, the Speaker of the Assembly shall select nine members from the Assembly and the Senate Committee on Rules shall select nine members from the Senate. As to any bill referred to a conference committee established pursuant to this rule, it shall require an affirmative vote of not less than six of the Senate Members and six of the Assembly Members constituting the committee on conference to (1) agree upon a report, or (2) make the finding and determination described in Rule 30.7, resulting in the discharge of the conferees as to that bill. Upon such discharge, other conferees shall be appointed as to that bill in accordance with subdivision (c) of this rule and Rule 29.

(d) Neither Rule 28.1 nor subdivision (d) of Rule 29.5 applies to any conference committee established pursuant to this rule.

(e) Senate Rule 29.6 and Assembly Rule 68.9 do not apply to any conference committee established pursuant to this rule.

(f) This rule shall be operative only during the 1997 portion of the 1997–98 Regular Session.

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## RESOLUTION CHAPTER 21

Senate Concurrent Resolution No. 35—Relative to California Historical and Special Interest Automobile Recognition Week.

[Filed with Secretary of State April 16, 1997.]

WHEREAS, The hobby of collecting, preserving, restoring, and maintaining motor vehicles of historic and special interest is encouraged by the Legislature as a constructive leisure pursuit, as stated in Section 5050 of the Vehicle Code; and

WHEREAS, There is a large number of California citizens who engage in this hobby which contributes to the enjoyment and preservation of California's automobile memorabilia; and

WHEREAS, There are many vehicle-related activities such as car shows, swap meets, interclub meets, concours, and tours, that feature historical and special interest vehicles, and these activities are often the focal point of healthful outdoor family recreation and are often used to promote nonprofit charitable causes; and

WHEREAS, There are many people in California who could gain great pleasure and knowledge from a greater involvement in vehicle memorabilia and vehicle-related activities; and

WHEREAS, The Association of California Car Clubs is conducting the Eleventh Annual Legislative Conference related to California Historic and Special Interest Vehicles on April 16, 1997; and

WHEREAS, The Association of California Car Clubs is celebrating its 25th Anniversary this year; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the Legislature hereby proclaims the week of April 13 through April 20, 1997, as California Historical and Special Interest Automobile Recognition Week; and be it further

*Resolved,* That the Secretary of the Senate transmit suitably prepared copies of this resolution to the author for appropriate distribution.

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## RESOLUTION CHAPTER 22

Senate Concurrent Resolution No. 30—Relative to Flood Emergency Worker Recognition Day.

[Filed with Secretary of State April 18, 1997.]

WHEREAS, California has experienced a series of major winter storms commencing on December 26, 1996, that caused the worst flooding in recorded state history, and resulting in a 125-year flooding of the Tuolumne River, a 100-year flooding of the Feather and Yuba Rivers, and a 50-year flooding of the Sacramento River, with more than 30 breaks along the state managed levees, and an untold number of breaks along private levees; and

WHEREAS, The flooding has claimed at least eight lives, destroyed more than 3,000 homes and wreaked damage and havoc to many thousands more, and forced more than 100,000 people from their homes to stay in emergency shelters and in the homes of friends and relatives; and

WHEREAS, Fifty California counties have been declared disaster areas by the Governor and Acting Governor of California and by the President of the United States, and two key California highways, U.S. 50 through the Sierra to South Lake Tahoe and U.S. 395 north of Mammoth Lakes, remained closed for more than three weeks because of the need for extensive repairs, resulting in untold loss of business and damage to the livelihoods of those businesses and communities affected by this disaster; and

WHEREAS, The early damage tallies from flood-ravaged California stand at no less than $1.6 billion, with more than 1,000 businesses damaged or destroyed, with agricultural losses estimated at more than $155 million including downed livestock, ruined wheat crops, boats torn from moorings, and damage costs to the state highway system estimated at no less than $50 million; and

WHEREAS, Many thousands of California citizens devoted tireless hours and tremendous resources, braved perilous conditions, and even placed their own lives at risk to protect the lives and properties of their fellow Californians; and

WHEREAS, California's private, nonprofit, and public sector workers, including our state, federal and local employees, especially distinguished themselves in their devotion to their duties as emergency workers or as volunteers; and

WHEREAS, The unselfish and dedicated commitment of these individuals, who work for the Department of Transportation, the Department of Forestry and Fire Protection, public agencies including city and county police departments, sheriff and fire departments, emergency operations and planning, hazardous materials, public utilities and public works departments, environmental management, health departments, human and social services departments, mental health, building inspections, construction inspection, emergency medical services, sewer and water, highway maintenance, area flood control agencies, ditch maintenance, drainage and sewer, flood control, garbage and refuse collection, agricultural commissioners, and animal control departments of the affected counties, along with State of California employees including those of the Office of Emergency Services,

California Highway Patrol, California Conservation Corps, Emergency Medical Services Authority, Corrections, Department of the Youth Authority, State Department of Health Services, Department of Water Resources, U.S. Corps of Engineers, National Guard, Department of Consumer Affairs, Department of General Services, Hazard Section in Office of Emergency Services, Cal EPA-OEHA, State Department of Mental Health, State Department of Social Services, and nonprofit agencies, including the American Red Cross and the Salvation Army, saved thousands of lives and helped minimize the potentially catastrophic property damage; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the Legislature of the State of California hereby designates April 17, 1997, as Flood Emergency Worker Recognition Day, with special observances to be scheduled in the State Capitol on that date, and that the people of the state be encouraged to give thanks on that day for our outstanding public workers, for the employees of nonprofit agencies, and for all the volunteers whose good will and personal courage moved them to willingly and selflessly put their lives on the line to aid their fellow Californians; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

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## RESOLUTION CHAPTER 23

Assembly Concurrent Resolution No. 23—Relative to Senior Citizens' Week.

[Filed with Secretary of State April 22, 1997.]

WHEREAS, More than 4 million seniors live in California today, comprising one of the fastest growing segments of our population; and

WHEREAS, Twenty-five percent of California's older population is in our state's labor force and contributing to the growth of the economy; and

WHEREAS, An ever-increasing number of senior citizens volunteer their time to help improve their community and to serve as mentors for younger citizens; and

WHEREAS, A growing number of California's senior citizens are leading active, healthy, physical lifestyles, enabling participation in activities such as the California Senior Olympics, as well as regional and local athletic events; and

WHEREAS, Throughout the state there are an expanding number of organizations and clubs that have been and are being formed by

seniors to meet their communities' needs and to maintain their well-being; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the week of May 4, 1997, to May 10, 1997, inclusive, is proclaimed as Senior Citizens' Week in California and all Californians are urged to honor our state's seniors by participating in activities held throughout the week to commemorate this observance.

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## RESOLUTION CHAPTER 24

Assembly Concurrent Resolution No. 29—Relative to California Nonprofits Week.

[Filed with Secretary of State April 22, 1997.]

WHEREAS, Citizens of California have joined together to form over 120,000 nonprofit organizations that employ over 750,000 people and receive and spend over $60 billion a year; and

WHEREAS, Nonprofit organizations touch the lives of every person in the State of California by serving people from all walks of life, socioeconomic groups, political orientation, and cultural background; and

WHEREAS, Nonprofits are vast and varied in their structure and whom they serve and include 1,614 health care, 3,561 educational, 8,778 human service, 2,866 grantmaking, 767 arts and entertainment, 664 research and management training, 44,000 mutual benefit, 24,000 religious, and 11,000 community service organizations; and

WHEREAS, Over 75 percent of California nonprofits do not have employees, are run by volunteers, and over 15,000,000 California citizens volunteer three to five hours per week; and

WHEREAS, Nonprofit health organizations, which make up the largest segment of the nonprofit sector, provide 50 percent of the state's nonprofit revenues and employ 40 percent of its long-term nursing and personal care facilities; and

WHEREAS, Three hundred seventy-eight thousand babies were delivered in nonprofit hospitals; and

WHEREAS, Nonprofit education, the second largest segment of the nonprofit sector, employs over 110,000 employees and expends over $8 billion per year in their communities; and

WHEREAS, Nonprofit educational organizations teach 500,000 of the state's children in kindergarten and grades 1 to 12, inclusive, and 200,000 college students; and

WHEREAS, The 2,741 independent foundations, 100 corporate foundations, and 25 community foundations, with assets of $18 billion annually, give $1 billion in grants to California nonprofits, and include

seven of the nation's largest independent foundations, and seven of the nation's largest community foundations; and

WHEREAS, Thousands regularly attend California's nonprofit churches and synagogues, visit the state's museums and botanical and zoological gardens, and enjoy the music of the state's symphony orchestras; and

WHEREAS, Nonprofit research facilities work to find cures to life-threatening diseases and solutions to pressing sociological issues; and

WHEREAS, Nonprofit organizations provide most of the artistic and cultural opportunities in the state, including one-half of the producers of five theatrical productions, and the majority of museums and art galleries; and

WHEREAS, Nonprofits are responsible for winning women's voting rights and rights for immigrants, and giving birth to the civil rights movement; and

WHEREAS, Nonprofit social service organizations have helped millions of Americans get back on their feet, enabling them to become active, productive citizens; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Legislature hereby proclaims the week of April 20 to April 26, 1997, inclusive, as California Nonprofits Week, and recognizes nonprofit organizations as a sector that contributes significantly to the economic and social growth and environmental and cultural well-being of this state.

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## RESOLUTION CHAPTER 25

Assembly Concurrent Resolution No. 50—Relative to the 10th Annual Tomas Rivera Conference at the University of California, Riverside.

[Filed with Secretary of State April 22, 1997.]

WHEREAS, The late Tomas Rivera served with distinction at the University of California, Riverside campus from 1980 to 1985; and

WHEREAS, Dr. Rivera served as the first Chicano and first underrepresented leader to serve as a chancellor of a University of California campus; and

WHEREAS, The distinguished Concha Rivera has carried on the legacy of her late husband in her exemplary outreach to the Inland Empire and people in need; and

WHEREAS, The University of California, Riverside campus has sponsored the annual Tomas Rivera Conference, now in its 10th year, to focus attention on the issue of diversity and on other critical issues impacting Chicanos; and

WHEREAS, The 10th Annual Tomas Rivera Conference will be held at the University of California Riverside campus on Friday, April 25th to pay tribute to the memory of Chancellor Rivera who set an example as a migrant worker who dedicated his life to the advancement of all people and who distinguished himself as an educator, poet, champion of human rights, and a citizen of the world; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the members pay tribute to the remarkable achievements of Tomas and Concha Rivera and salute the University of California, Riverside for its sponsorship of the 10th Annual Tomas Rivera Conference; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the University of California, Riverside.

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## RESOLUTION CHAPTER 26

Assembly Joint Resolution No. 5—Relative to the Gulf War Syndrome.

[Filed with Secretary of State April 23, 1997.]

WHEREAS, The debate surrounding the impacts of chemical weapon agents and the Gulf War Syndrome are both overdue and have not been far-reaching enough; and

WHEREAS, The White House, Congress, and the Department of Defense struggle to understand the enigmatic illnesses troubling our Gulf War veterans; and

WHEREAS, The basic question of whether the illnesses experienced by troops serving in the Gulf War were the result of some specific and unusual exposure related to that service has not been answered conclusively; and

WHEREAS, The Department of Defense has confirmed that American forces had been in the presence of Iraqi chemical munitions at Khamisiyah, a weapons storage site destroyed by American forces at the end of the war, and that exposure was possible; and

WHEREAS, The Department of Defense, in cooperation with the CIA and other agencies, are conducting extensive investigations, reaching out to more than 20,000 service personnel who may have been in the vicinity of Khamisiyah at the time of the possible release of chemical agents; and

WHEREAS, The Department of Defense has committed to continue efforts to investigate this incident, and any similar incidents that are identified, and spare no resource in this effort; and

WHEREAS, The Pentagon is seeking proposals on studies focusing on the impact of low-level exposure to chemical weapons and has earmarked $10 million for the study; and

WHEREAS, The Presidential Advisory Committee on Gulf War Veterans Illnesses established by President Clinton on May 26, 1995, has released its final report calling for continued and extensive investigation and study of this issue; and

WHEREAS, Nobel Prize winning geneticist, Dr. Joshua Lederberg, may revise the findings of his investigation into veterans' claims regarding Gulf War Syndrome, because of new information; and

WHEREAS, The Pentagon and Congress of the United States are attempting to limit research to approximately two years to identify problems in connection with Gulf War Syndrome; and

WHEREAS, The California Legislature finds this action unacceptable and therefore supports continued research to address this extremely serious problem; now, therefore, be it

*Resolved by the Assembly and Senate of the State of California, jointly,* That the Legislature of the State of California respectfully memorializes the President and Congress to continue efforts to ensure that veterans of the Gulf War are appropriately cared for, to do everything possible to understand and explain Gulf War illnesses, to put into place those military doctrines, personnel, and medical policies, procedures, and equipment that will minimize any future problems from exposure to biological or chemical agents or other environmental hazards, and to use all means necessary to ensure that Gulf War veterans who placed themselves in harms way on behalf of all Americans are provided the assistance, support, and care they deserve; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

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## RESOLUTION CHAPTER 27

Senate Joint Resolution No. 12—Relative to closing the flight-service station at the Arcata-Eureka Airport.

[Filed with Secretary of State April 23, 1997.]

WHEREAS, The Federal Aviation Administration is scheduled to close the flight-service station at the Arcata-Eureka Airport in McKinleyville, Humboldt County; and

WHEREAS, All onsite personnel will be eliminated and the airport will be operated as an automatic flight-service center, served by an air traffic controller located in Oakland, California; and

WHEREAS, The FAA plan eliminates all air traffic personnel between McMinville, Oregon, and Oakland, California, and this same geographic discrepancy on the east coast of the United States would be similar to eliminating all air traffic controllers between Portland, Maine and Richmond, Virginia; and

WHEREAS, The Arcata-Eureka Airport flight-service center has provided daily services for commercial, corporate, and general aviation traffic for over four decades; and

WHEREAS, It serves the region's smaller airports, which include Brookings, Oregon, and Crescent City, Fortuna, Shelter Cove, Willow Creek, and Hoopa, California, and averages 150 to 300 contacts and a traffic flow of 40 to 100 airplanes daily; and

WHEREAS, There are unique weather and geographic factors to be considered such as that the airport was constructed overlooking the Pacific Ocean by the Navy during World War II to test military defogging equipment, as it is believed to be the foggiest stretch of coastline in the western United States; and

WHEREAS, On average, Instrument Flight Rules (IFR) must be filed 265 days per year due to fog and inclement weather, and station personnel must utilize a wide array of tools to ensure air traffic safety, including radio frequencies, the telephone, a direction finder, and on-the-ground view of the runway; and

WHEREAS, The closure of the station would put the safety of air travelers on the north coast of California at risk, air traffic will experience greater delays and flight cancellations, and local efforts to improve the regional economy through tourism and commerce will be adversely affected; now, therefore, be it

*Resolved by the Senate and Assembly of the State of California, jointly,* That the California Legislature memorializes Congress to oppose the closure of the air flight-service center at the Arcata-Eureka Airport, in Humboldt County, California, and to direct the Federal Aviation Administration to act accordingly; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Administrator of the Federal Aviation Administration.

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## RESOLUTION CHAPTER 28

Assembly Concurrent Resolution No. 38—Relative to California Holocaust Memorial Week.

[Filed with Secretary of State April 25, 1997.]

WHEREAS, More than 50 years have passed since the tragic events we now call the Holocaust transpired in which the dictatorship of Nazi Germany murdered six million Jews as part of a systematic program of genocide known as "The Final Solution of the Jewish Question"; and

WHEREAS, The Holocaust was a tragedy of proportions the world had never witnessed; and

WHEREAS, Five million others were also murdered by the Nazis; and

WHEREAS, We must be reminded of the reality of the Holocaust's horrors so they will never be repeated; and

WHEREAS, Each person in the State of California should set aside moments of his or her time every year to give remembrance to those who lost their lives in the Holocaust; and

WHEREAS, The United States Holocaust Memorial Council has designated the week of May 4 through May 10, 1997, as Holocaust Memorial Week Days of Remembrance for Victims of the Holocaust; and

WHEREAS, May 4, 1997, is Yom HaSho'ah, and has been designated internationally as a day of remembrance for victims of the Holocaust; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the week of May 4 through May 10, 1997, be proclaimed as California Holocaust Memorial Week, and that Californians are urged to observe these days of remembrance for victims of the Holocaust in an appropriate manner; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

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## RESOLUTION CHAPTER 29

Senate Concurrent Resolution No. 8—Relative to Alberta, Canada.

[Filed with Secretary of State April 28, 1997.]

WHEREAS, At least 3.5 million ducks of the Pacific Flyway nest in the wetlands and marshes of Alberta, Canada during the summer season, and migrate to the wetlands of the central valley of California during the winter; and

WHEREAS, In the past 20 years, the State of California has contributed $4.5 million from the California Duck Stamp Bill to Ducks Unlimited for critical habitat enhancement work for waterfowl in Canada, most of it in Alberta, which has protected 230,000 acres of nesting habitat; and

WHEREAS, Mixed grass prairies of southern Alberta support a wide range of bird and raptor species, including bald eagles, which have been proven to migrate between California and Alberta; and

WHEREAS, At approximately 31.4 million, the population of California exceeds both the population of Alberta, at 2.8 million, and the total population of Canada, at 29.9 million; and

WHEREAS, With only 9 percent of the population of Canada, Alberta has one of the most productive and balanced agricultural economies in the world, with more than 51 million acres being used for crop and livestock production, producing the largest cattle and sheep populations in Canada, accounting for about 22 percent of the total primary agricultural production of Canada, and generating international export sales of $4.2 billion in 1995; and

WHEREAS, California is the principal agricultural state in the United States, and has the most diversified agricultural economy in the world, producing more than 250 crop and livestock commodities generating $11.2 billion in export sales in 1995; and

WHEREAS, Alberta enjoys an abundance of low-sulfur coal and natural gas, generating some of the lowest electricity and natural gas rates in North America, most of which is exported to the United States, including California; and

WHEREAS, Both California and Alberta have an extensive network of community colleges, universities, and technical institutes, with a heavy emphasis on research; and

WHEREAS, In 1995, Alberta's forest product industry generated $4.2 billion in total sales, of which $2.6 billion was exported to the United States, and California's forestry industry generated $12 billion in the same year; and

WHEREAS, The North American Free Trade Agreement gives both California and Alberta enhanced access to each other's markets, necessitating a seamless north-to-south transportation corridor between Alberta and California; and

WHEREAS, Alberta is presently working to obtain an agreement known as the CANAMEX trade and transportation corridor with California, Arizona, Idaho, Montana, Nevada, and Utah, towards greater efficiency in the movement of commercial goods along the north-south trade corridor, working toward achieving compatible motor transportation standards including harmonized truck weights and dimensions, a single permit system, and cooperation on transportation; and

WHEREAS, A sister state relationship would promote mutual trade and commerce, and increase the potential for greater coordination on all issues of common concern to California and Alberta; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the Legislature of the State of California, on behalf of the people of California, extends to the people of the Province of Alberta, Canada an invitation to join with California in

a sister state relationship in order to encourage and facilitate mutually beneficial educational, economic, ecological, recreational, and cultural exchanges and to lead to an indelible and lasting relationship between the citizens of California and Alberta; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the Premier of Alberta, and Members of the Legislative Assembly, to the Alberta Members of the Parliament of Canada, to the Governor of California, and to each Senator and Representative from California in the Congress of the United States.

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## RESOLUTION CHAPTER 30

Senate Concurrent Resolution No. 32—Relative to Autism Treatment Awareness Week.

[Filed with Secretary of State April 28, 1997.]

WHEREAS, Autism is a physical disorder of the brain that can cause a lifelong developmental disability; and

WHEREAS, In the United States there are at least 360,000 people with autism, one-third of whom are children; and

WHEREAS, The diagnosis and treatment of autism may require assessment and intervention by a multidisciplinary team of experts; and

WHEREAS, The early intervention behavior analysis program developed over the past 30 years by Dr. Ivar Lovaas at the University of California at Los Angeles has shown that a program of intensive early intervention treatment that focuses on a multidisciplinary approach relying in large part on family and community participation produces a positive outcome; and

WHEREAS, Current research being conducted into the biological causes and treatment regimens for autism are showing great promise and therefore should be encouraged and supported; and

WHEREAS, Cure Autism Now (CAN) is an organization formed by parents of autistic children who are dedicated to finding effective biological treatments and a cure for autism; and

WHEREAS, CAN's philosophy is that parents of autistic children cannot wait for someone else to decide that these children deserve help, and that the pace of scientific progress in the field of autism research can and must be accelerated; and

WHEREAS, To reach its objectives, CAN relies on the following three strategies: establishment of an aggressive and collaborative scientific work group made up of top researchers and clinicians, collaboration between researchers and an active parent board, and prompt review and funding of practically oriented research; and

WHEREAS, CAN participates in, initiates, and inspires a variety of programs and events related to autism research, including biomedical research conferences, a scientific work group Internet forum, a web page that includes a data base of autism research, autism task forces, brainstorm sessions, a diagnostic evaluation and treatment option handbook, an autism genetic resource exchange, a study of the cost of the disease of autism, as well as political action for congressional support of autism research; and

WHEREAS, Additional special education teachers and curriculum for autistic children are needed and would ultimately reduce the risk of institutionalization of autistic children; and

WHEREAS, Parental involvement, community integration, early intervention, increased acceptance of children with special needs, and systematic treatment are all key components that would make a more favorable future likely for children with autism; and

WHEREAS, Heightened awareness and education about autism would help to achieve these components; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the Legislature hereby proclaims the week of April 27 through May 3, 1997, as Autism Treatment Awareness Week, and acknowledges the contribution made in the area of early autism intervention treatment by experts in the field as well as the families involved; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the State Department of Developmental Services, Area Board III, the State Department of Education, Local Chapters of the Autism Society, Regional Centers, the Association of Regional Center Agencies, Protection and Advocacy Inc., the Cure Autism Now Organization (CAN), the California School Boards Association, and the State Council on Developmental Disabilities.

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## RESOLUTION CHAPTER 31

Assembly Concurrent Resolution No. 33—Relative to Child Passenger Safety Week.

[Filed with Secretary of State May 2, 1997.]

WHEREAS, The number one preventable cause of death and injury of children and young adults is the automobile collision; and

WHEREAS, Approximately 200 children under 16 years of age are killed and over 28,000 are injured in automobile collisions each year in California; and

WHEREAS, Up to 71 percent of these children would be alive today if they had been properly restrained in crash-tested car safety seats or safety belts; and

WHEREAS, Infants and young children are not capable of initiating action to use proper restraints and are not protected adequately by automatic seat belts or air bags; and

WHEREAS, Only about 50 percent of children in this age group are protected by proper restraint use; and

WHEREAS, Crash-tested car safety seats are moderately priced and widely available for purchase at retail stores and for rent or at low cost from car safety seat loan programs throughout California; and

WHEREAS, The State of California requires that until children are both four years of age and weight 40 pounds or more, they must be restrained in child safety seats and that all other motor vehicle occupants must use safety belts; and

WHEREAS, The goal of SafetyBeltSafe U.S.A. is to increase awareness concerning the obligation of every parent to provide for the safety and protection of every child from injury or death while being transported in a motor vehicle; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the week from April 27, 1997, to May 3, 1997, is hereby declared Child Passenger Safety Week.

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## RESOLUTION CHAPTER 32

Assembly Concurrent Resolution No. 36—Relative to Sexual Assault Awareness Month.

[Filed with Secretary of State May 2, 1997.]

WHEREAS, The American Medical Association has stated that a "woman is raped every 46 seconds in the United States" and that sexual assault is a "silent epidemic"; and

WHEREAS, Women, children, and men are all victims of sexual assault and it is estimated that one in three women, one in four girls, one in six boys, and one in 11 men will be victims at least once in their lifetimes; and

WHEREAS, Women, children, and men suffer multiple types of sexual violence, including, but not limited to, stranger rape, date rape, spousal rape, gang rape, serial rape, trafficking and prostitution, pornography, ritual abuse, sexual harassment, incest, child sexual molestation, and stalking; and

WHEREAS, Women, children, and men should be free from sexual violence in their homes, in the streets, in their workplaces, and in their recreational activities; and

WHEREAS, The Federal Bureau of Investigation estimates that only one in nine women who are sexually assaulted report the crime; and

WHEREAS, Rape and sexual assault affect women, children, and men of all racial, cultural, and economic backgrounds; and

WHEREAS, It is not uncommon for women to experience multiple forms of sexual violence in the course of their lifetimes; and

WHEREAS, Emotional and physical scars resulting from sexual violence are often severe and longlasting; and

WHEREAS, A coalition of rape crisis centers, known as the California Coalition Against Sexual Assault, has emerged to directly confront this crisis with the cooperation of law enforcement agencies, churches, health care providers, and other helping professionals from California's diverse communities; and

WHEREAS, It is important to recognize the compassion and dedication of the individuals involved in this effort, applaud their commitment, and increase public understanding of this significant problem; and

WHEREAS, It is important to recognize the strength, courage, and challenges of the victims and survivors of sexual assault and their family and friends as they struggle to cope with the reality of sexual assault; and

WHEREAS, It is important to recognize that not all victims of sexual assault survive, either at the time of the assault or later, due to the horrific long-term trauma that sexual assault often inflicts upon victims; and

WHEREAS, There are rape prevention and education efforts underway throughout California to challenge the societal myths and behaviors that perpetuate rape and to engage communities in a common goal of ending sexual assault; and

WHEREAS, There is a Sexual Assault Awareness Week in October; and

WHEREAS, That one week has now grown to a full month of recognition and activities promoted by the National Coalition Against Sexual Assault to increase awareness of sexual assault and to create solutions; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Legislature hereby proclaims that, henceforth, the month of April shall be designated as Sexual Assault Awareness Month; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President of the United States, to the Governor, to the United States Director on Victims of Crime, and to each Senator and Representative from California in the Congress of the United States.

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## RESOLUTION CHAPTER 33

Assembly Concurrent Resolution No. 37—Relative to School Psychology Week.

[Filed with Secretary of State May 2, 1997.]

WHEREAS, It is important that children are provided opportunities to learn and grow, so that they may become responsible, productive adults; and

WHEREAS, Children are our most valuable resource—our leaders of tomorrow who need to be nurtured and supported, particularly in their educational pursuits; and

WHEREAS, School psychologists help to ensure that pupils have a sound environment in which to learn and grow through the application of their knowledge to educational programs, thereby cultivating the intellectual, social, and emotional development of pupils; and

WHEREAS, School psychologists have the experience and expertise necessary to recommend early intervention for children in need of special assistance—a sound element of prevention that can help keep greater problems from occurring in the future; and

WHEREAS, As school-based experts in children's learning and psychological development, school psychologists are leaders in delivering mental health services to our state's schoolage children; and

WHEREAS, It is appropriate that all Californians recognize school psychologists for the important work they undertake each day; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Legislature of the State of California hereby proclaims April 13, 1997, through April 19, 1997, as School Psychology Week in California, and encourages all citizens to participate in appropriate activities held to commemorate this observance.

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## RESOLUTION CHAPTER 34

Assembly Concurrent Resolution No. 17—Relative to payment of prevailing wage rates on public works projects.

[Filed with Secretary of State May 6, 1997.]

WHEREAS, The California Labor Code has long required that employees on public works projects be paid at least the general prevailing rate of per diem wages for the applicable craft and locality; and

WHEREAS, This requirement is intended to protect employees on public works projects by ensuring that they receive at least the general prevailing rate of per diem wages for their work; and

WHEREAS, For more than 40 years the general prevailing rate of per diem wages in California has been defined as the modal rate, which is the single rate paid to the greatest number of workers within the applicable craft and locality; and

WHEREAS, The general prevailing rate of per diem wages has also long been defined to include predetermined increases when the prevailing wage is based on a collective bargaining agreement containing those increases, so that the pay of employees on public works projects does not fall behind the pay of comparable employees in the private sector; and

WHEREAS, The Legislature has relied on these definitions, which best express the original intent of the prevailing wage law, in amending the provisions of the prevailing wage law on numerous occasions, thereby incorporating the definitions by implication into the statutes; and

WHEREAS, In 1995, the Legislature specifically rejected legislation sponsored by the Department of Industrial Relations that would have changed the method by which prevailing wage rates are calculated to a weighted average unless more than half the workers within a classification are paid at a single rate, and would have eliminated predetermined increases from the prevailing wage rate; and

WHEREAS, In 1996, the Legislature specifically rejected an amendment to the Budget Bill proposing an appropriation to the Department of Industrial Relations for the purpose of implementing a new, modified weighted-average methodology for calculating the prevailing wage; and

WHEREAS, The Department of Industrial Relations has, without any authorization or direction from the Legislature, adopted administrative regulations to implement a weighted-average methodology and to eliminate predetermined increases from the prevailing wage rate; now, therefore, be it

*Resolved, by the Assembly of the State of California, the Senate thereof concurring,* That the Legislature declares that it has relied on the long-established definitions of the general prevailing rate of per diem wages in amending and extending the prevailing wage law contained in the California Labor Code on numerous occasions, and that it would be contrary to the intent of the Legislature for those definitions to be changed by administrative action, because the definitions have become incorporated by implication into these statutory provisions; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit a copy of this resolution to the Director of Industrial Relations and to the Governor.

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## RESOLUTION CHAPTER 35

Assembly Concurrent Resolution No. 41—Relative to a National Day of Prayer.

[Filed with Secretary of State May 7, 1997.]

WHEREAS, Deep religious beliefs inspired many of the early settlers of our country, providing them with the strength, character, convictions, and faith necessary to withstand great hardship and danger in this rugged land; and

WHEREAS, These shared beliefs helped forge a sense of common purpose among the widely dispersed colonies—a sense of community that laid the foundation for the spirit of nationhood that was to develop in later decades; and

WHEREAS, Whether at the landing of our forebears on this continent, the ordeal of the Revolutionary War, the stormy days of binding the 13 colonies into one country, the Civil War, or other moments of trial over the years, we have turned to God in prayer for His help; and

WHEREAS, As we crossed and settled a continent, built a nation in freedom, and endured war and critical struggles to become the leader of the Free World and a sentinel of liberty, we repeatedly turned to our maker for strength and guidance in achieving the awesome tasks before us; and

WHEREAS, The attitudes we have as people united together, caring for each other, committed to freedom, and holding high the dignity of each person, we practice in prayer that which we derived from our religious heritage; and

WHEREAS, Since April 17, 1952, the recognition of a particular day each year as a National Day of Prayer has become part of the traditions we have as a people, and is a day on which we are invited to turn to God in prayer and meditation in places of worship, in groups, and as individuals; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Legislature of the State of California hereby recognizes Thursday, May 1, 1997, as "National Day of Prayer" and calls upon the people of California, each according to his or her faith, to gather together that day in homes and places of worship to pray for unity of the hearts of all mankind; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit a suitably prepared copy of this resolution to the author for appropriate distribution.

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## RESOLUTION CHAPTER 36

Assembly Concurrent Resolution No. 51—Relative to the Armenian Genocide.

[Filed with Secretary of State May 7, 1997.]

WHEREAS, The Armenian Genocide of 1915–1923 was the first genocide of the 20th century, in which 1.5 million men, women, and children lost their lives at the hands of the Turkish Ottoman Empire; and

WHEREAS, During the seven decades of the USSR's existence, the government of Soviet Azerbaijan conducted a systematic policy of removal of Karabagh Armenians from their historic homeland; and

WHEREAS, Armenians in Azerbaijan fell victims to the Sumgait Pogroms in 1988 resulting in 72 deaths, the Baku anti-Armenian riots in 1990 resulting in 68 Armenian deaths, and the mass deportations of 350,000 Armenians from Azerbaijan; and

WHEREAS, Recognition of these instances of man's inhumanity to man is crucial to ensuring against the repetition of genocide and provides the American public with an greater understanding of its heritage; and

WHEREAS, Armenians in the Republic of Nagorno Karabagh remain at risk of yet another genocide until the time a peaceful resolution to the Nagorno Karabagh conflict is reached that guarantees the freedom and security for these people while supporting their right to self-determination; and

WHEREAS, Despite the abundance of overwhelming and convincing evidence, the government of Turkey persists in denying the occurrence of the Armenian Genocide; and

WHEREAS, California is home to the largest Armenian-American population in the United States, and Armenians living in California have enriched our state through their leadership in business, agriculture, academia, government, and the arts; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Legislature of the State of California hereby designates April 24, 1997, as "California Day of Remembrance for the Armenian Genocide of 1915–1923, and for the Victims of the Sumgait Pogroms of 1988 and Baku Riots of 1990"; and be it further

*Resolved,* That the people of California are called upon to use vigilance to ensure the peaceful settlement of the Nagorno Karabagh

conflict while protecting the security of the Armenians in the Republic of Nagorno Karabagh; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the Governor and to the Armenian Genocide Commemorative Committee.

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## RESOLUTION CHAPTER 37

Assembly Concurrent Resolution No. 49—Relative to Law Enforcement Appreciation Week.

[Filed with Secretary of State May 9, 1997.]

WHEREAS, Public safety for the citizens of this state is of the utmost priority; and

WHEREAS, Law enforcement officers of this state are on the front lines daily risking their lives to ensure that each citizen can live in a safe and secure environment; and

WHEREAS, Law enforcement officers work in partnership with their community to protect life and property, solve neighborhood problems, and enhance the quality of life in this state; and

WHEREAS, Law enforcement officers bear the public trust and dedicate themselves to the protection of the safety and rights of the citizens of this state; and

WHEREAS, The second week of May has been dedicated to law enforcement officers by the United States Congress as National Police Memorial Week to honor all officers who have given the ultimate sacrifice while in the line of duty; and

WHEREAS, Ceremonies will be held in Sacramento in conjunction with National Police Memorial Week and Law Enforcement Appreciation Week, acknowledging the sacrifices and dedication of our local law enforcement professionals; and

WHEREAS, Law enforcement officers and their families and friends encourage the community to participate and acknowledge the sacrifices of those brave men and women who are entrusted with the public safety by attending these weeklong events starting with the opening ceremony on Sunday, May 11, 1997, and ending with a memorial ceremony on Saturday, May 17, honoring the memory of California officers killed in the line of duty; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Legislature does hereby proclaim May 11 through May 17, 1997, as Law Enforcement Appreciation Week in California, and encourages all Californians to join in this observance to commend our law enforcement officers for their professionalism and commitment to the citizens of California; and be it further

*Resolved,* That the Chief Clerk of the Assembly prepare and transmit a copy of this resolution to the Governor.

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## RESOLUTION CHAPTER 38

Senate Joint Resolution No. 11—Relative to the tandem method of skydiving instruction.

[Filed with Secretary of State May 9, 1997.]

WHEREAS, Existing federal regulations require that all tandem skydiving instruction and jumping occur under an exemption to regulations of the Federal Aviation Administration (FAR Part 105.43(a)) allowing use of the "dual harness, dual parachute system"; and

WHEREAS, The original test program was anticipated as taking one year to 18 months to demonstrate the safety of the system but has extended to 13 years due to the inability of the FAA to address a permanent rule change; and

WHEREAS, The tandem skydiving system has been thoroughly tested on over 2.5 million "experimental" skydives and has proved itself to be the safest and most popular method of introductory skydiving training ever known; and

WHEREAS, The skydiving industry has now been subject to the exemption process for 13 years with no indications as to when this burdensome and unnecessary process will be concluded; and

WHEREAS, The skydiving industry seeks relief from the burdensome and commercially restrictive requirements of the original exemption, prohibitions which are preventing the industry from expanding into new and acceptable markets; and

WHEREAS, Finalizing a permanent rule change to FAR Part 105.43(a) will maintain or enhance skydiving safety and pose no undue cost burden to the consumer; now, therefore, be it

*Resolved by the Senate and Assembly of the State of California, jointly,* That California urges the Congress of the United States, the Federal Aviation Administration, and the skydiving industry to expeditiously conclude and make permanent the rule change to FAR Part 105.43(a) to legalize and legitimize tandem skydiving equipment and the methods of training that have been successfully employed for tandem skydiving, as intended by the original exemption; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States,

to the Administrator of the Federal Aviation Administration, and to the President of the United States Parachute Association.

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## RESOLUTION CHAPTER 39

Senate Concurrent Resolution No. 7—Relative to the creation of the Joint Committee on School Facilities.

[Filed with Secretary of State May 9, 1997.]

WHEREAS, The Department of Finance estimates that over 500,000 new pupils will enter the public school system in kindergarten and grades 1 to 12, inclusive, by the 2001–02 school year, averaging 100,000 new pupils each year for the next five years; and

WHEREAS, The needs for new construction, modernization, deferred maintenance, and air-conditioning over the next five years total $10,097,000,000; and

WHEREAS, Reducing class size, establishing year-round education, acquiring land, using portable classrooms, and providing access to the Leroy F. Greene State School Building Lease-Purchase Program are issues the Legislature is currently trying to resolve; and

WHEREAS, The Legislature passed and the Governor signed a package of school facility bills in 1986 that were designed to establish a state and local partnership in financing school facilities and to upgrade building standards in order to provide suitable facilities; and

WHEREAS, The continued economic development of the state is dependent on the provision of adequate school facilities; and

WHEREAS, Continuous legislative oversight of the implementation of school facilities legislation and ongoing review of school facility needs should be maintained; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the Joint Committee on School Facilities is hereby established and authorized to do all of the following:

(1) Investigate, study, and analyze the statutory provisions relating to the financing, construction, reconstruction, and operation of school facilities.

(2) Conduct oversight hearings and investigations as necessary to evaluate the effectiveness and efficiency of the school facilities system.

(3) Formulate school facility legislation necessary to meet the need for additional school facilities; and be it further

*Resolved,* That the Joint Committee on School Facilities shall consist of five Members of the Senate, appointed by the Senate Committee on Rules, and five Members of the Assembly, appointed by the Speaker of the Assembly; and be it further

*Resolved,* That the Joint Committee on School Facilities and its members shall have and exercise all of the rights, duties, and powers conferred upon investigating committees and their members by the provisions of the Joint Rules of the Senate and Assembly as they are adopted and amended from time to time, which provisions are incorporated herein and made applicable to this committee and its members; and be it further

*Resolved,* That the Joint Committee on School Facilities may contract, subject to the approval of the Senate Committee on Rules, with other agencies, public or private, as necessary to obtain services or studies that will assist the committee in carrying out its responsibilities; and be it further

*Resolved,* That the Senate Committee on Rules may make money available from the Senate Operating Fund as it deems necessary for the expenses of the Joint Committee on School Facilities and its members. Any expenditure of money shall be made in compliance with policies set forth by the Senate Committee on Rules and shall be subject to the approval of the Senate Committee on Rules; and be it further

*Resolved,* That the Joint Committee on School Facilities shall, within 15 days of authorization, and, consistent with the normal annual appropriations process for funding legislative committees, present its initial budget to the Senate Committee on Rules for its review, comment, and approval; and be it further

*Resolved,* That the Joint Committee on School Facilities shall submit a report at the end of each legislative session to the Legislature on its activities and recommendations for improvements in the school facilities system; and be it further

*Resolved,* That the Joint Committee on School Facilities is authorized to act until June 30, 1998, at which time the committee's existence shall terminate.

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## RESOLUTION CHAPTER 40

Assembly Concurrent Resolution No. 28—Relative to victims' rights.

[Filed with Secretary of State May 14, 1997.]

WHEREAS, The citizens of California continue to be exposed to violent crimes that invade homes and shatter even the most trusting relationships; and

WHEREAS, Violent crime affects not only the victims, but all Californians; and

WHEREAS, The most effective aid that can be provided to victims of crime is to prevent them from becoming victims in the first place; and

WHEREAS, A critical component of an effective criminal justice system is to recognize and protect victim's rights within the legal process; and

WHEREAS, Victims and witnesses of crime require our special attention to ensure that they are thoroughly informed about, and participate effectively in, our criminal justice system; and

WHEREAS, Victims of violent crime should receive compensation for their losses to the maximum extent allowed by law; and

WHEREAS, Thousands of victims and witnesses receive assistance each day from victim support organizations, victim-witness assistance centers, private service providers, and state and local governments; and

WHEREAS, The criminal justice system in this state must continue efforts to better coordinate and improve the quality of services provided to victims and witnesses; and

WHEREAS, The citizens of this state have continually demonstrated their commitment to victims of violent crime; and

WHEREAS, The Legislature and the voters by initiative have expanded the death penalty and enacted the "Three Strikes" law as a deterrent to violent crime; and

WHEREAS, The yearly observance of the National Crime Victims' Rights Week focuses on the problems confronting victims of crime and the services available to support these victims, increases public awareness of crime victims' circumstances, and acknowledges the combined efforts of citizens, government, and the criminal justice system to improve victims' services in California; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the California State Legislature does hereby proclaim April 12 through April 18, 1998, as Crime Victims' Rights Week in California, and encourage all Californians to join in this observance by wearing victim awareness ribbons to demonstrate their commitment to assisting victims, and put an end to crime in the Golden State.

*Resolved,* That the Chief Clerk of the Assembly prepare and transmit a copy of this resolution to the Governor.

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## RESOLUTION CHAPTER 41

Senate Concurrent Resolution No. 1—Relative to the adoption of the Joint Rules of the Senate and Assembly for the 1997–98 Regular Session.

[Filed with Secretary of State May 15, 1997.]

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the following rules be adopted as the Joint Rules of the Senate and Assembly for the 1997–98 Regular Session:

## JOINT RULES OF THE SENATE AND ASSEMBLY

### Standing Committees

1. Each house shall appoint standing committees as the business of the house may require, the committees, the number of members, and the manner of selection to be determined by the rules of each house.

### Joint Meeting of Committees

3. Whenever any bill has been referred by the Senate to one of its committees, and the same or a like bill has been referred by the Assembly to one of its committees, the chairmen or chairwomen of the respective committees, when in their judgment the interests of legislation or the expedition of business will be better served thereby, shall arrange for a joint meeting of their committees for the consideration of the bill.

### Effect of Adoption of Joint Rules

3.5. The adoption of the Joint Rules for any extraordinary session shall not be construed as modifying or rescinding the Joint Rules of the Senate and Assembly for any previous session, nor as affecting in any way the status or powers of the committees created by those rules.

### Definition of Word "Bill"

4. Whenever the word "bill" is used in these rules, it shall include any constitutional amendment, any resolution ratifying a proposed amendment to the United States Constitution, and any resolution calling for a constitutional convention.

### Concurrent and Joint Resolutions

5. Concurrent resolutions relate to matters to be treated by both houses of the Legislature.

Joint resolutions relate to matters connected with the federal government.

### Resolutions Treated as Bills

6. Concurrent and joint resolutions, other than resolutions ratifying proposed amendments to the United States Constitution and resolutions calling for constitutional conventions, shall be treated in all respects as bills except as follows:

(a) They shall be given only one formal reading in each house.

(b) They shall not be deemed bills within the meaning of subdivision (a) of Section 8 of Article IV of the California Constitution.

(c) They shall not be deemed bills for the purposes of Rules 10.8, 53, 55, 56, and 61, and subdivisions (a) and (c) of Rule 54 and subdivisions (a) and (b) of Rule 62.

(d) They shall not, except for those relating to voting procedures on the floor or in committee, be deemed bills for the purposes of subdivision (c) of Rule 62.

## Preparation and Introduction of Bills

### Title of Bill

7. The title of every bill introduced shall convey an accurate idea of the contents of the bill and shall indicate the scope of the act and the object to be accomplished. In amending a code section, the mere reference to the section by number shall not be deemed sufficient.

### Division of Bill Into Sections

8. A bill amending more than one section of an existing law shall contain a separate section for each section amended.

Bills that are not amendatory of existing laws shall be divided into short sections, where this can be done without destroying the sense of any particular section, to the end that future amendments may be made without the necessity of setting forth and repeating sections of unnecessary length.

### Digest of Bills Introduced

8.5. No bill may be introduced unless it is contained in a cover attached by the Legislative Counsel and it is accompanied by a digest, prepared and attached to the bill by the Legislative Counsel, showing the changes in the existing law which are proposed by the bill. No bill shall be printed where the body of the bill or the Legislative Counsel's Digest has been altered, unless the alteration has been approved by the Legislative Counsel. If any bill is presented to the Secretary of the Senate or Chief Clerk of the Assembly for introduction, which does not comply with the foregoing requirements of this rule, the Secretary or Chief Clerk shall return it to the member who presented

it. The digest shall be printed on the bill as introduced, commencing on the first page thereof.

Digest of Bills Amended

8.6. Whenever a bill is amended in either house, the Secretary of the Senate or the Chief Clerk of the Assembly, as the case may be, shall request the Legislative Counsel to prepare an amended digest and cause it to be printed on the first page of the bill as amended. The digest shall be amended to show changes in the existing law which are proposed by the bill as amended, with any material changes in the digest indicated by the use of appropriate type.

Errors in Digest

8.7. If a material error in a printed digest referred to in Rule 8.5 or 8.6 is brought to the attention of the Legislative Counsel, he or she shall prepare a corrected digest which shall show the changes made in the digest as provided in Rule 10 for amendments to bills. He or she shall deliver the corrected digest to the Secretary of the Senate or the Chief Clerk of the Assembly, as the case may be. If the correction so warrants in the opinion of the President pro Tempore of the Senate or the Speaker of the Assembly, a corrected print of the bill as introduced shall be ordered with the corrected digest printed thereon.

Bills Amending Title 9 of the Government Code

8.8. A member who is the first-named author of a bill that would amend, add, or repeal any provision of Title 9 (commencing with Section 81000) of the Government Code, upon introduction or amendment of the bill in either house shall notify the Chief Clerk of the Assembly or the Secretary of the Senate, as the case may be, of the nature of the bill. Thereafter, the Chief Clerk of the Assembly or the Secretary of the Senate shall deliver a copy of the bill as introduced or amended to the Fair Political Practices Commission pursuant to Section 81012 of the Government Code.

Restrictions as to Amendments

9. A substitute or amendment must relate to the same subject as the original bill, constitutional amendment, or resolution under consideration. No amendment shall be in order when all that would be done to the bill is the addition of a coauthor or coauthors, unless the Committee on Rules of the house in which the amendment is to be offered grants prior approval.

Changes in Existing Law to Be Marked by Author

10. In a bill amending or repealing a code section or a general law, any new matter shall be underlined, and any matter to be omitted shall be in type bearing a horizontal line through the center and commonly known as "strikeout" type. When printed the new matter shall be printed in italics, and the matter to be omitted shall be printed in "strikeout" type.

In any amendment to a bill which sets out for the first time a section being amended or repealed, any new matter to be added and any matter to be omitted shall be indicated by the author and shall be printed in the same manner as though the section as amended or repealed were a part of the original bill and was being printed for the first time.

When an entire code is repealed as part of a codification or recodification, or when an entire title, part, division, chapter, or article of a code is repealed, the sections comprising the code, title, part, division, chapter, or article shall not be set forth in the bill or amendment in strikeout type.

Rereferral to Fiscal and Rules Committees

10.5. A bill shall be rereferred to the fiscal committee of each house when it would do any of the following:

(1) Appropriate money.

(2) Result in substantial expenditure of state money by: (a) imposing new responsibilities on the state, (b) imposing new or additional duties on a state agency, or (c) liberalizing any state program, function, or responsibility.

(3) Result in a substantial loss of revenue to the state.

(4) Result in substantial reduction of expenditures of state money by reducing, transferring, or eliminating any existing responsibilities of any state agency, program, or function.

Concurrent and joint resolutions shall be rereferred to the fiscal committee of each house when they contemplate any action that would involve any of the following:

(1) Any substantial expenditure of state money.

(2) Any substantial loss of revenue to the state.

The above requirements do not apply to bills or concurrent resolutions that contemplate the expenditure or allocation of operating funds.

A bill that assigns a study to the Joint Legislative Budget Committee or to the Legislative Analyst shall be rereferred to the respective rules committees. Before the committee may act upon the bill, it shall obtain from the Joint Legislative Budget Committee an estimate of the amount required to be expended to make the study.

This rule may be suspended in either house as to any particular bill by approval of the Committee on Rules of the house and two-thirds vote of the membership of the house.

## Heading of Bills

10.7. No bill may indicate in its heading or elsewhere that it was introduced at the request of a state agency or officer or any other person. No bill may contain the words “By request” or words of similar import.

## Consideration of Bills

10.8. The limitation contained in subdivision (a) of Section 8 of Article IV of the Constitution may be dispensed with as follows:

(a) A written request for dispensation entitled “Request to Consider and Act on Bill Within 30 Calendar Days” shall be filed with the Chief Clerk of the Assembly or the Secretary of the Senate, as the case may be, and transmitted to the Committee on Rules of the appropriate house.

(b) The Committee on Rules of the Assembly or Senate, as the case may be, shall determine whether there exists an urgent need for dispensing with the 30-calendar-day waiting period following the bill’s introduction.

(c) If the Committee on Rules recommends that the waiting period be dispensed with, the member may offer a resolution, without further reference thereof to committee, authorizing hearing and action upon the bill before the 30 calendar days have elapsed. The adoption of the resolution shall require an affirmative recorded vote of three-fourths of the elected members of the house in which the resolution is presented.

## Printing of Amendments

11. (a) Any bill amended by either house shall be immediately reprinted. Except as otherwise provided in subdivision (b), if new matter is added by the amendment, the new matter shall be printed in italics in the printed bill; if matter is omitted, the matter to be omitted shall be printed in strikeout type. When a bill is amended in either house, the first or previous markings shall be omitted.

(b) If amendments to a bill, including the report of a committee on conference, are adopted that omit the entire contents of the bill, the matter omitted need not be reprinted in the amended version of the bill. Instead, the Secretary of the Senate or the Chief Clerk of the Assembly, as the case may be, may select the amended bill and cause to be printed a brief statement to appear after the last line of the amended bill identifying which previously printed version of the bill contains the complete text of the omitted matter.

### Manner of Printing Bills

12. The State Printer shall observe the directions of the Joint Rules Committee in printing all bills, constitutional amendments, and concurrent and joint resolutions.

### Distribution of Legislative Publications

13. The Secretary of the Senate and the Chief Clerk of the Assembly shall order a sufficient number of bills and legislative publications as may be necessary for legislative requirements.

No complete list of bills may be delivered except upon payment therefor of the amount fixed by the Joint Rules Committee for any regular or extraordinary session. No more than one copy of any bill or other legislative publication, nor more than a total of 100 bills or other legislative publications during a session, may be distributed free to any person, office, or organization. The limitations imposed by this paragraph do not apply to Members of the Legislature, the President of the Senate, the Secretary of the Senate , or the Chief Clerk of the Assembly for the proper functioning of their respective houses; the Legislative Counsel Bureau; the Attorney General's office; the Secretary of State's office; the Controller's office; the Governor's office; the Clerk of the Supreme Court; the clerk of the court of appeal for each district; the Judicial Council; the California Law Revision Commission; the State Library; the Library of Congress; the libraries of the University of California at Berkeley and at Los Angeles; or accredited members of the press. The State Printer shall fix the cost of the bills and publications, including postage, and moneys as may be received by him or her shall, after deducting the cost of handling and mailing, be remitted on the first day of each month, one-half each to the Secretary of the Senate and the Chief Clerk of the Assembly for credit to legislative printing. Legislative publications heretofore distributed through the Bureau of Documents shall be distributed through the Bill Room. Unless otherwise provided for, the total number of each bill to be printed shall not be more than 2,500.

### Legislative Index

13.1. The Legislative Counsel shall provide for the periodic publication of a cumulative Legislative Index, which shall include tables of sections affected by pending legislation. The State Printer shall print the Legislative Index in the quantities, and at the times, determined by the Secretary of the Senate and the Chief Clerk of the Assembly. The costs of that printing shall be paid from the legislative printing appropriation.

### Summary Digest

13.3. The Legislative Counsel shall compile and prepare for publication a summary digest of legislation passed at each regular and extraordinary session, which digest shall be prepared in a form suitable for inclusion in the publication of statutes. The digest shall be printed as a separate legislative publication on the order of the Joint Rules Committee, and may be made available to the public in the quantities, and at the prices, determined by the Joint Rules Committee.

### Statutory Record

13.5. The Legislative Counsel shall prepare for publication from time to time a cumulative statutory record. The statutory record shall be printed as a legislative publication on the order of the Secretary of the Senate or the Chief Clerk of the Assembly.

## Other Legislative Printing

### Printing of the Daily Journal

14. The State Printer shall print, in the quantities directed by the Secretary of the Senate and the Chief Clerk of the Assembly, copies of the journal of each day's proceedings of each house. At the end of the session he or she shall also print, as directed by the Secretary of the Senate and the Chief Clerk of the Assembly, a sufficient number of copies properly paged after being corrected and indexed by the Secretary of the Senate and the Chief Clerk of the Assembly, to bind in book form as the journal of the respective houses of the Legislature.

### What Shall Be Printed in the Journal

15. The following shall be printed in the journal of each house:

(a) Messages from the Governor and messages from the other house, and the titles of all bills, joint and concurrent resolutions, and constitutional amendments when introduced in, offered to, or acted upon by the house.

(b) Every vote taken in the house, and a statement of the contents of each petition, memorial, or paper presented to the house.

(c) A true and accurate account of the proceedings of the house, when not acting as a Committee of the Whole.

### Printing of the Daily File

16. A daily file of bills ready for consideration shall be printed each day for each house when the Legislature is not in joint recess, except days when a house does not meet.

### Printing of History

17. Each house shall cause to be printed, once each week, a complete history of all bills, constitutional amendments, and concurrent, joint, and house resolutions originating in, considered, or acted upon by the respective houses and committees thereof. A regular form shall be prescribed by the Secretary of the Senate and the Chief Clerk of the Assembly. The history shall show the action taken upon each measure up to and including the legislative day preceding its issuance. Except for periods when the houses are in joint recess, for each day intervening there shall be printed a daily history showing the consideration given to or action taken upon any measure since the issuance of the complete history.

### Authority for Printing Orders

18. The State Printer may not print for use of either house, nor charge to legislative printing, any matter other than provided by law or by the rules, except upon a written order signed by the Secretary of the Senate, on behalf of the Senate, or the Chief Clerk of the Assembly or other person authorized by the Assembly, on behalf of the Assembly. Persons authorized to order printing under this rule may, when necessity requires it, order certain matter printed in advance of the regular order, by the issuance of a rush order.

The Secretary of the Senate, on behalf of the Senate, and the Chief Clerk of the Assembly or other person authorized by the Assembly, on behalf of the Assembly, are hereby authorized and directed to order and distribute for the members stationery and legislative publications for which there is a demand, and, subject to the rules of their respective houses, to approve the bills covering those orders. All bills for printing must be presented by the State Printer within 30 days after the completion of the printing.

## Record of Bills

### Secretary and Chief Clerk to Keep Records

19. The Secretary of the Senate and the Chief Clerk of the Assembly shall keep a complete and accurate record of every action taken by the Senate and Assembly on every bill.

### Secretary and Chief Clerk Shall Endorse Bills

20. The Secretary of the Senate and the Chief Clerk of the Assembly shall endorse on every original or engrossed bill a statement of any action taken by the Senate or Assembly concerning the bill.

## Action in One House on Bill Transmitted from the Other

### After a Bill Has Been Passed by the Senate or Assembly

21. When a bill has been passed by either house it shall be transmitted promptly to the other, unless a motion to reconsider or a notice of motion to reconsider has been made or it is held pursuant to some rule or order of the house.

The procedure of referring bills to committees shall be determined by the respective houses.

### Messages to Be in Writing Under Proper Signatures

22. Notice of the action of either house to the other shall be in writing and under the signature of the Secretary of the Senate or the Chief Clerk of the Assembly, as the case may be. A receipt shall be taken from the officer to whom the message is delivered.

### Uncontested Bills

22.1. Each standing committee may report an uncontested bill out of committee with the recommendation that it be placed on the consent calendar. The Secretary of the Senate and the Chief Clerk of the Assembly shall provide to each committee chairman or chairwoman appropriate forms for that report. As used in this rule, "uncontested bill" means a bill, except a revenue measure or a measure as to which the 30-day limitation prescribed by subdivision (a) of Section 8 of Article IV of the California Constitution has been dispensed with, which (a) receives a do-pass or do-pass-as-amended recommendation from the committee to which it is referred, by unanimous vote of the members present provided a quorum is present, (b) has no opposition expressed by any person present at the committee meeting with respect to the final version of the bill as approved by the committee, and (c) prior to final action by the committee, has been requested by the author to be placed on the consent calendar.

### Consent Calendar

22.2. Following its second reading and the adoption of any committee amendments thereto, any bill certified by the committee chairman or chairwoman as an uncontested bill shall be placed by the Secretary of the Senate or the Chief Clerk of the Assembly on the consent calendar, and shall be known as a "consent calendar bill." Any consent calendar bill that is amended from the floor shall cease to be a consent calendar bill and shall be replaced on the third reading file. Upon objection of any member to the placement or retention of any bill on the consent calendar, the bill shall cease to be

a consent calendar bill and shall be replaced on the third reading file. No consent calendar bill shall be considered for adoption until the second legislative day following the day of its placement on the consent calendar.

### Consideration of Bills on Consent Calendar

22.3. A bill on the consent calendar is not debatable, except that the President of the Senate or the Speaker of the Assembly shall allow a reasonable time for questions from the floor and shall permit a proponent of the bill to answer the questions. Immediately prior to voting on the first bill on the consent calendar, the President of the Senate or the Speaker of the Assembly shall call to the attention of the members the fact that the next roll call will be the roll call on the first bill on the consent calendar.

The consent calendar shall be considered as the last order of business on the daily file.

## Passage and Enrolling of Bills

### Procedure on Defeat of More Than Majority Bill

23.5. Whenever a bill containing a section or sections requiring for passage an affirmative recorded vote of more than 21 votes in the Senate and more than 41 votes in the Assembly is being considered for passage, and the urgency clause, if the bill is an urgency bill, or the bill, in any case, fails to receive the necessary votes to make all sections effective, no further action may be taken on the bill, except that an amendment to remove all sections requiring the higher vote for passage from the bill shall be in order prior to consideration of further business. If the amendment is adopted, the bill shall be reprinted to reflect the amendment. When the bill is reprinted, it shall be returned to the same place on the file that it occupied when it failed to receive the necessary votes.

### Enrollment of Bill After Passage

24. After a bill has passed both houses it shall be printed in enrolled form, omitting symbols indicating amendments, and shall be compared by the Engrossing and Enrolling Clerk and the proper committee of the house where it originated to determine that it is in the form approved by the houses. The enrolled bill shall thereupon be signed by the Secretary of the Senate and Chief Clerk of the Assembly and, except as otherwise provided by these rules, presented without delay to the Governor. The committee shall report the time of presentation of the bill to the Governor to the house and the record shall be entered in the journal. After enrollment and signature by the officers of the Legislature, constitutional

amendments, and concurrent and joint resolutions, shall be filed without delay in the office of the Secretary of State and the time of filing shall be reported to the house and the record entered in the journal.

## Amendments and Conferences

### Amendments to Amended Bills Must Be Attached

25. Whenever a bill or resolution that has been passed in one house is amended in the other, it shall immediately be reprinted as amended by the house making the amendment or amendments. One copy of the amendment or amendments shall be attached to the bill or resolution so amended, and endorsed "adopted"; the amendment or amendments, if concurred in by the house in which the bill or resolution originated, shall be endorsed "concurred in"; and the endorsement shall be signed by the Secretary or Assistant Secretary of the Senate, or the Chief Clerk or Assistant Clerk of the Assembly, as the case may be. However, an amendment to the title of a bill adopted after the passage of the bill shall not necessitate reprinting, but the amendment must be concurred in by the house in which the bill originated.

### Amendments to Concurrent and Joint Resolutions

25.5. When a concurrent or joint resolution is amended, and the only effect of the amendments is to add coauthors, the joint or concurrent resolution shall not be reprinted unless specifically requested by one of the added coauthors, but a list of the coauthors shall appear in the journal and history.

### To Concur or Refuse to Concur in Amendments

26. If the Senate amends and passes an Assembly bill, or the Assembly amends and passes a Senate bill, the Senate (if it is a Senate bill) or the Assembly (if it is an Assembly bill) must either "concur" or "refuse to concur" in the amendments. If the Senate concurs (if it is a Senate bill), or the Assembly concurs (if it is an Assembly bill), the Secretary of the Senate or Chief Clerk of the Assembly shall so notify the house making the amendments, and the bill shall be ordered to enrollment.

### Reference to Committee

26.5. Pursuant to Rule 26, whenever a bill is returned to its house of origin for a vote on concurrence in an amendment made in the other house, the Legislative Counsel shall promptly prepare and transmit to the Chief Clerk of the Assembly and the Speaker of the

Assembly in the case of an Assembly bill, or to the Secretary of the Senate and Chair of the Senate Committee on Rules in the case of a Senate bill, a brief digest summarizing the effect of the amendment made in the other house. The Secretary or Chief Clerk shall, upon receipt from the Legislative Counsel, cause the digest to be printed in the Daily File immediately following any reference to the bill covered by the digest. A motion to concur or refuse to concur in the amendment shall not be in order until the Legislative Counsel's Digest has appeared in the file or an analysis of the bill has been prepared and distributed pursuant to Senate Rule 29.8 or Assembly Rule 77.

If the digest discloses that the amendment of the other house has made a substantial substantive change in the bill as first passed by the house of origin, the bill shall, on motion of the Chair of the Senate Committee on Rules, if it be a Senate bill, be referred to the Senate Committee on Rules for reference to an appropriate standing committee. If the bill is an Assembly bill it shall be referred by the Speaker to the appropriate committee.

Upon receipt of the bill, the committee may vote to recommend concurrence or nonconcurrence in the amendment or the committee may hold the bill. The committee shall be subject to all the requirements for procedure provided under Rule 62 for committees, other than committees of first referral, and shall be subject to other requirements for normal committee procedure as the Assembly or Senate may separately provide in the standing rules of their respective houses.

Any of the provisions of this rule may be dispensed with regard to a particular bill in its house of origin upon an affirmative vote of a majority of the members of that house.

### Concurring in Amendments Adding Urgency Section

27. When a bill that has been passed in one house is amended in the other by the addition of a section providing that the act shall take effect immediately as an urgency statute, and is returned to the house in which it originated for concurrence in the amendment or amendments thereto, the procedure and vote thereon shall be as follows:

The presiding officer shall first direct that the urgency section be read and put to a vote. If two-thirds of the membership of the house vote in the affirmative, the presiding officer shall then direct that the question of whether the house shall concur in the amendment or amendments shall be put to a vote. If two-thirds of the membership of the house vote in the affirmative, concurrence in the amendments shall be effective.

If the affirmative vote on either of the questions is less than two-thirds of the membership of the house, the effect is a refusal to

concur in the amendment or amendments, and the procedure thereupon shall be as provided in Rule 28.

When Senate or Assembly Refuses to Concur

28. If the Senate (if it is a Senate bill) or the Assembly (if it is an Assembly bill) refuses to concur in amendments to the bill made by the other house, and the other house has been notified of the refusal to concur, a conference committee shall be appointed for each house in the manner prescribed by these rules. The Senate Committee on Rules, on behalf of the Senate, and the Speaker of the Assembly, on behalf of the Assembly, shall each appoint a committee of three on conference, and the Secretary of the Senate or the Chief Clerk of the Assembly shall immediately notify the other house of the action taken.

Committee on Conference

28.1. (a) The Senate Committee on Rules and the Speaker of the Assembly, in appointing a committee on conference, shall each select two members from those voting with the majority on the point about which the difference has arisen, and the other member from the minority, in the event there is a minority vote.

Whether a member has voted with the majority or minority on the point about which the difference has arisen is determined by his or her vote on the appropriate roll call, as follows:

(1) In the Assembly—

(A) The roll call on the question of final passage of a Senate bill amended in the Assembly when the Senate has refused to concur with the Assembly amendments.

(B) The roll call on the question of concurrence with Senate amendments to an Assembly bill.

(2) In the Senate—

(A) The roll call on the question of final passage of an Assembly bill amended in the Senate when the Assembly has refused to concur with the Senate amendments.

(B) The roll call on the question of concurrence with Assembly amendments to a Senate bill.

(b) Either house may suspend this rule by a two-thirds vote of the membership of the house.

Meetings and Reports of Committees on Conference

29. The first Senator named on the conference committee shall act as chairman or chairwoman of the committee from the Senate, and the first Member of the Assembly named on the committee shall act as chairman or chairwoman of the committee from the Assembly. The chairman or chairwoman of the committee on conference for

the house of origin of the bill shall arrange the time and place of meeting of the conference committee, and shall prepare or direct the preparation of reports. It shall require an affirmative vote of not less than two of the Assembly Members and two of the Senate Members constituting the committee on conference to agree upon a report, and the report shall be submitted to both the Senate and the Assembly. The committee on conference shall report to both the Senate and the Assembly. The report is not subject to amendment. If either house refuses to adopt the report, the conferees shall be discharged and other conferees appointed, except that no more than three different conference committees shall be appointed on any one bill. No member who has served on a committee on conference may be appointed a member of another committee on conference on the same bill. It shall require the same affirmative recorded vote to adopt any conference report as required by the California Constitution upon the final passage of the bill affected by the report. It shall require an affirmative recorded vote of two-thirds of the entire elected membership of each house to adopt any conference report affecting any bill that contains an item or items of appropriation that are subject to subdivision (d) of Section 12 of Article IV of the California Constitution. The report of a conference committee shall be in writing, and shall have affixed thereto the signatures of each Senator and each Member of the Assembly consenting to the report. Space shall also be provided where a member of a conference committee may indicate his or her dissent in the committee's findings. Any dissenting member may have attached to a conference committee report a dissenting report which shall not exceed, in length, the majority committee report. A copy of any amendments proposed in the majority report shall be placed on the desk of each member of the house before it is acted upon by the house.

The vote on concurrence or upon the adoption of the conference report shall be deemed the vote upon final passage of the bill.

Conference Committees

29.5. (a) All meetings of any conference committee on the Budget Bill shall be open and readily accessible to the public.

No conference committee on any bill may meet, consider, or act on the subject matter of the bill except in a meeting that is open and readily accessible to the public, unless the action is on a report determined by the Legislative Counsel to be nonsubstantive. The Legislative Counsel shall examine each proposed report and shall note upon the face of the report that the amendments proposed are "substantive" or "nonsubstantive" as the case may be.

The chairman or chairwoman of the conference committee of each house shall give notice to the file clerk of their respective houses of the time and place of the meeting. Notice of each public meeting shall be published in the file of each house one calendar day prior to

the meeting, except that the notice shall not be required for a meeting of a conference committee on the Budget Bill. When this subdivision is waived with respect to a meeting of any public conference committee, or when there is a meeting of a conference committee on the Budget Bill, every effort shall be made to inform the public that a meeting has been called. When this subdivision has been waived with respect to the meeting of any public conference committee, the chairman or chairwoman of the conference committee of each house shall immediately notify the chairman or chairwoman of the policy committee of their respective houses that considered the bill in question of the waiver, and of the time and place of the meeting.

(b) The first committee on conference of the Budget Bill, if a committee is appointed, shall submit its report to each house no later than 15 days after the Budget Bill has been passed by both houses. If the report is not submitted by that date, the conference committee shall be deemed to have reached no agreement and shall so inform each house pursuant to Rule 30.7.

(c) A committee on conference of the Budget Bill may consider only differences between the Assembly version of the Budget Bill as passed by the Assembly and the Senate version of the Budget Bill as passed by the Senate, and may not approve any item of expenditure or control that exceeds that contained in one of the two versions before the conference committee.

(d) No conference committee on any bill, other than the Budget Bill, may approve any substantial financial provision in any bill if the financial provision has not been heard by the fiscal committee of each house, nor may any conference committee approve substantial policy changes that have not been heard by the policy committee of each house.

(e) No waiver of the one-calendar-day file notice requirement of subdivision (a) shall be effective for longer than three calendar days.

## Conference Committee Reports

30. Upon submission of any report of a committee on conference recommending that the bill be further amended, the bill shall be reprinted incorporating the amendments recommended by the conference committee. The consideration of the report of a committee on conference shall not be in order until the bill, in the form recommended by the report of the committee on conference, has both been in print and been noticed in the Daily File for not less than one legislative day.

If the conference committee's report recommends only that the amendments of the Senate or the Assembly "be concurred in," consideration of the report shall be in order at any time, and reprinting of the bill shall not be required, but notice shall appear in the Daily File for not less than one legislative day.

No conference committee report is in order unless it has been received by the Secretary of the Senate and the Chief Clerk of the Assembly at least three calendar days preceding the scheduled commencement of the summer, interim, or final recesses of the Legislature.

This rule may be suspended as to any particular conference committee report by a two-thirds vote of the membership of either house.

This rule does not apply to a report of a committee on conference on the Budget Bill.

Conference Committee Reports on Urgency Statutes

30.5. When the report of a committee on conference recommends the amendment of a bill by the addition of a section providing that the act shall take effect immediately as an urgency statute, the procedure and the vote thereon shall be as follows:

The presiding officer shall first direct that the urgency section be read and put to a vote. If two-thirds of the members elected to the house vote in the affirmative, the presiding officer shall then direct that the question of whether the house shall adopt the report of the committee on conference shall be put to a vote. If two-thirds of the members elected to the house vote in the affirmative, the adoption of the report and the amendments proposed thereby shall be effective.

If the affirmative vote on either of the questions is less than two-thirds of the members elected to the house, the effect is a refusal to adopt the report of the committee on conference.

Failure to Agree on Report

30.7. A conference committee may find and determine that it is unable to submit a report to the respective houses, upon the affirmative vote to that effect of not less than two of the Assembly Members and not less than two of the Senate Members constituting the committee. That finding may be submitted to the Chief Clerk of the Assembly and the Secretary of the Senate in the form of a letter from the chairman or chairwoman of the committee on conference for the house of origin of the bill, containing the signatures of the members of the committee consenting to the finding and determination that the committee is unable to submit a report. The Chief Clerk of the Assembly and the Secretary of the Senate, upon being notified that a conference committee is unable to submit a report, shall so inform each house, whereupon the conferees shall be discharged and other conferees appointed, in accordance with the provisions of Rule 29.

## Miscellaneous Provisions

### Authority When Rules Do Not Govern

31. All relations between the houses that are not covered by these rules shall be governed by Mason's Manual.

### Press Rules

32. (a) Any person desiring privileges of an accredited press representative shall make application to the Joint Rules Committee. The application shall constitute compliance with any provisions of the rules of the Assembly or the Senate with respect to registration of news correspondents. The application shall state in writing the name of any daily newspaper, periodic publication, news association, or radio or television station that employs the press representative, and any other occupations or employment he or she may have. The press representative shall further declare in the application that he or she is not employed, directly or indirectly, to assist in the prosecution of the legislative business of any person, corporation, or association, and will not become so employed while retaining the privilege of an accredited press representative.

(b) The application required by subdivision (a) of this rule shall be authenticated in a manner that shall be satisfactory to the Standing Committee of the Capitol Correspondents Association, which shall see that occupation of seats and desks in the Senate and the Assembly Chambers is confined to bona fide correspondents of reputable standing in their business, who represent daily newspapers requiring a daily file of legislative news, qualified periodic publications, or news associations requiring daily telegraphic or radio or television service on legislative news. It shall be the duty of the standing committee, at its discretion, to report any violation of accredited press privileges to the Speaker of the Assembly or the Senate Committee on Rules and, pending action thereon, the offending correspondent may be suspended by the standing committee.

(c) Except as otherwise provided in this subdivision, persons engaged in other occupations whose chief attention is not given to newspaper correspondence or to news associations requiring telegraphic or radio or television service are not entitled to the privileges accorded accredited press representatives. The press list in the Handbook of the California Legislature and the Senate and Assembly Histories shall be a list of only those persons authenticated by the Standing Committee of the Capitol Correspondents Association. Accreditation may be granted to any bona fide correspondent of reputable standing employed by a periodic publication of general circulation if the applicant is employed on a full-time basis in the capitol area preparing articles dealing with state

government and politics and the publication is not an organ or organization involved in legislative advocacy.

(d) The press seats and desks in the Senate and Assembly Chambers shall be under the control of the standing committee of correspondents, subject to the approval and supervision of the Speaker of the Assembly and the Senate Committee on Rules. Press cards shall be issued by the President of the Senate and the Speaker of the Assembly only to correspondents properly accredited in accordance with the provisions of this rule.

(e) One or more rooms shall be assigned for the exclusive use of correspondents during the legislative session, which rooms shall be known as the Press Room. The Press Room shall be under the control of the Chief of the Office of Buildings and Grounds, provided that all rules and regulations must be approved by the Senate Committee on Rules and the Speaker of the Assembly.

(f) No accredited member of the Capitol Correspondents Association shall, for compensation, perform any service for state constitutional officers or members of their staffs, for state agencies, for the Legislature, for candidates for state office, for a state officeholder, or for any person registered or performing as a legislative advocate.

(g) An accredited member of the association who violates subdivision (a) or (f) of this rule shall be subject to the following penalties:

(1) For the first offense, the Standing Committee of the Capitol Correspondents Association shall send a letter of admonition to the offending member, his or her employer, and the Joint Rules Committee. The letter shall state the nature of the member's rule violation and shall warn of an additional penalty for a second offense.

(2) For a second offense, the Standing Committee of the Capitol Correspondents Association shall recommend to the Joint Rules Committee that the member's accreditation be suspended or revoked and that he or she lose all rights and privileges attached thereto. The Standing Committee of the Capitol Correspondents Association shall also dismiss the member from the association.

Any member of the Standing Committee of the Capitol Correspondents Association may propose that the committee make an inquiry to determine if an association member has violated subdivision (a) or (f) of this rule. Upon a majority vote of the Standing Committee of the Capitol Correspondents Association, an inquiry shall be made.

Upon receipt of a signed, written notice from any association member of his or her belief that another association member may have violated subdivision (a) or (f) of this rule, the Standing Committee of the Capitol Correspondents Association shall commence an inquiry into the possible violation.

If the Standing Committee of the Capitol Correspondents Association determines by majority vote that an association member

has violated an association rule, it shall inform the member of its finding. Within two weeks of notification, the member may request a meeting of the membership. If the member makes a request, the Standing Committee of the Capitol Correspondents Association shall promptly schedule a meeting at the earliest possible time. After hearing the member and the committee review the circumstances of the alleged violation, the membership may, by majority vote, nullify the finding of the Standing Committee of the Capitol Correspondents Association. If nullification does not occur, the Standing Committee of the Capitol Correspondents Association shall impose immediately the appropriate penalty.

Dispensing With Joint Rules

33. No joint rule may be dispensed with except by a vote of two-thirds of each house or as otherwise provided in these rules. If either house violates a joint rule, a question of order may be raised in the other house and decided in the same manner as in the case of the violation of the rules of the house. If it is decided that the joint rules have been violated, the bill involving the violation shall be returned to the house in which it originated, and the disputed matter shall be considered in like manner as in conference committee.

Dispensing with Joint Rules: Unanimous Consent

33.1. Notwithstanding any other rule, a joint rule that may be dispensed with by one house may be done so by unanimous consent if the rules committee of that house has approved.

Opinions of Legislative Counsel

34. Whenever the Legislative Counsel issues an opinion to any person other than the first-named author analyzing the constitutionality, operation, or effect of a bill or other legislative measure that is then pending before the Legislature or of any amendment made or proposed to be made to the bill or measure, he or she is authorized and instructed to deliver two copies of the opinion to the first-named author as promptly as feasible after the delivery of the original opinion and also to deliver a copy to any other author of the bill or measure who so requests. A copy of any letter prepared by the Legislative Counsel for the sole purpose of advising a member of a conflict between two or more bills as to the sections of law being amended, repealed, or added shall be submitted to the chairman or chairwoman of the committee to which each bill has been referred.

Resolutions Prepared by Legislative Counsel

34.1. Whenever the Legislative Counsel has been requested to draft a resolution commemorating or taking note of any event, or a resolution congratulating or expressing sympathy toward any person, and subsequently receives a similar request from another Member of the Legislature, he or she shall inform that requester and each subsequent requester that a resolution is being, or has been, prepared, and he or she shall inform them of the name of the member for whom the resolution was, or is being, prepared.

Resolutions

34.2. A concurrent resolution, Senate resolution, or House resolution may be introduced to memorialize the death of a present or former state or federal elected official or a member of his or her immediate family. In all other instances, a resolution other than a concurrent resolution, as specified by the Committee on Rules of each house, or as provided by the Joint Rules Committee in those cases requiring that the resolution should emanate from both houses, shall be used for the purpose of commendation, congratulation, sympathy, or regret with respect to any person, group, or organization.

No concurrent resolution requesting the Governor to issue a proclamation shall be introduced without the prior approval of the Committee on Rules of the house in which the resolution is to be introduced.

Identical Drafting Requests

34.5. Whenever it comes to the attention of the Legislative Counsel that a member has requested the drafting of a bill that will be substantially identical to one already introduced, the Legislative Counsel shall inform the member of that fact.

Expense of Members

35. As provided in Section 8902 of the Government Code, each Member of the Legislature is entitled to reimbursement for living expenses while required to be in Sacramento to attend a session of the Legislature, while traveling to and from or in attendance at a committee meeting, or while attending to any legislative function or responsibility as authorized or directed by legislative rules or the Committee on Rules of the house of which he or she is a member, at the same rate as may be established by the State Board of Control for other elected state officers. Each member shall be reimbursed for travel expenses incurred in traveling to and from a session of the Legislature, when traveling to and from a meeting of a committee of

which he or she is a member, or when traveling pursuant to any other legislative function or responsibility as authorized or directed by legislative rules or the Committee on Rules of the house of which he or she is a member, at the rate prescribed by Section 8903 of the Government Code.

Expense allowances for Members of the Senate and Assembly shall be approved and certified to the Controller by the Secretary of the Senate, on behalf of the Senate, and the Chief Clerk of the Assembly or other person authorized by the Assembly Committee on Rules, on behalf of the Assembly, weekly or as otherwise directed by either house, and upon certification the Controller shall draw his or her warrants in payment of the allowances to the respective members.

## Investigating Committees

36. In order to expedite the work of the Legislature either house, or both houses jointly, may by resolution or statute provide for the appointment of committees to ascertain facts and to make recommendations as to any subject within the scope of legislative regulation or control.

The resolution providing for the appointment of a committee pursuant to this rule shall state the purpose of the committee and the scope of the subject concerning which it is to act, and may authorize it to act either during sessions of the Legislature or, when authorization may lawfully be made, after final adjournment.

In the exercise of the power granted by this rule, each committee may employ clerical, legal, and technical assistants as may be authorized by: (a) the Joint Committee on Rules in the case of a joint committee, (b) the Senate Committee on Rules in the case of a Senate committee, or (c) the Assembly Committee on Rules in the case of an Assembly committee.

Except as otherwise provided herein for joint committees or by the rules of the Senate or the Assembly for single house committees, each committee may adopt and amend rules governing its procedure as may appear necessary and proper to carry out the powers granted and duties imposed under this rule. The rules may include provisions fixing the quorum of the committee and the number of votes necessary to take action on any matter. With respect to all joint committees, a majority of the membership from each house constitutes a quorum, and an affirmative vote of a majority of the membership from each house is necessary for the committee to take action.

Each committee is authorized and empowered to summon and subpoena witnesses, to require the production of papers, books, accounts, reports, documents, records, and papers of every kind and description, to issue subpoenas, and to take all necessary means to compel the attendance of witnesses and to procure testimony, oral and documentary.

Each member of the committees is authorized and empowered to administer oaths, and all of the provisions of Chapter 4 (commencing with Section 9400) of Part 1 of Division 2 of Title 2 of the Government Code, relating to the attendance and examination of witnesses before the Legislature and the committees thereof, shall apply to the committees.

The Sergeant at Arms of the Senate or Assembly, or other person as may be designated by the chairman or chairwoman of the committee, shall serve any and all subpoenas, orders, and other process that may be issued by the committee, when directed to do so by the chairman or chairwoman, or by a majority of the membership of the committee.

Every department, commission, board, agency, officer, and employee of the state government, including the Legislative Counsel and the Attorney General and their subordinates, and of every political subdivision, county, city, or public district of or in this state, shall give and furnish to these committees and to their subcommittees upon request information, records, and documents as the committees deem necessary or proper for the achievement of the purposes for which each committee was created.

Each committee or subcommittee of either house, in accordance with the rules of that respective house, and each joint committee or subcommittee thereof, may meet at any time during the period in which it is authorized to act, either at the State Capitol or at any other place in the State of California, in public or executive session, and do any and all things necessary or convenient to enable it to exercise the powers and perform the duties herein granted to it or accomplish the objects and purposes of the resolution creating it, subject to the following exceptions:

(a) When the Legislature is in session:

(1) No committee or subcommittee of either house may meet outside the State Capitol without the prior approval of the Senate Committee on Rules with respect to Senate committees and subcommittees, or the Speaker of the Assembly with respect to Assembly committees and subcommittees.

(2) No committee or subcommittee of either house, other than a standing committee or subcommittee thereof, may meet unless notice of the meeting has been printed in the daily file for four days prior thereto. This requirement may be waived by a majority vote of either house with respect to a particular bill.

(3) No joint committee or subcommittee thereof, other than the Joint Committees on Legislative Audit, Legislative Budget, and Rules, may meet outside the State Capitol without the prior approval of the Joint Rules Committee.

(4) No joint committee or subcommittee thereof, other than the Joint Committees on Legislative Audit, Legislative Budget, and Rules, may meet unless notice of the meeting has been printed in the daily file for four days prior thereto.

(b) When the Legislature is in joint recess, each joint committee or subcommittee, other than the Joint Committees on Legislative Audit, Legislative Budget, and Rules, shall notify the Joint Rules Committee at least two weeks prior to a meeting.

(c) The requirements placed upon joint committees by subdivisions (a) and (b) of this rule may be waived as deemed necessary by the Joint Rules Committee.

Each committee may expend such money as may be made available to it for its purpose, but no committee shall incur any indebtedness unless money has been first made available therefor.

No living expenses may be allowed in connection with legislative business for a day on which the member receives reimbursement for expenses while required to be in Sacramento to attend a session of the Legislature. The chairman or chairwoman of each committee shall audit and approve the expense claims of the members of the committee, including claims for mileage in connection with attendance on committee business, or in connection with specific assignments by the committee chairman or chairwoman, but excluding other types of mileage, and shall certify the amount approved to the Controller. The Controller shall draw his or her warrants upon the certification of the chairman or chairwoman.

Subject to the rules of each house for the respective committees of each house, and subject to the joint rules for any joint committee, the chairman or chairwoman of any committee may appoint subcommittees and chairmen or chairwomen thereof for the purpose of more expeditiously handling and considering matters referred to it, and the subcommittees and the chairmen or chairwomen thereof shall have all the powers and authority herein conferred upon the committee and its chairman or chairwoman. The chairman or chairwoman of the subcommittee shall audit the expense claims of the members of the subcommittees, and other claims and the expenses incurred by it, and shall certify the amount thereof to the chairman or chairwoman of the committee, who shall, if he or she approves the same, certify the amount thereof to the Controller; the Controller shall draw his or her warrant therefor upon that certification, and the Treasurer shall pay the same. Any committee or subcommittee thereof that is authorized to leave the State of California in the performance of its duties shall, while out of the state, have the same authority as if it were acting and functioning within the state, and the members thereof shall be reimbursed for expenses.

Notwithstanding any other provision of this rule, if the standing rules of either house require that expense claims of committees for goods or services, pursuant to contracts, or for expenses of employees or members of committees be audited or approved, after approval of the committee chairman or chairwoman, by another agency of either house, the Controller shall draw his or her warrants only upon the certification of the other agency. All expense claims approved by the chairman or chairwoman of any joint committee, other than the Joint

Legislative Budget Committee and the Joint Legislative Audit Committee, shall be approved by the Joint Rules Committee, and the Controller shall draw his or her warrants only upon the certification of the Joint Rules Committee.

Except salary claims of employees clearly subject to federal withholding taxes and the requirement as to loyalty oaths, claims presented for services or pursuant to contract shall refer to the agreement, the terms of which shall be made available to the Controller.

### Expenses of Committee Employees

36.1. Unless otherwise provided by respective house or committee rule or resolution, employees of legislative committees shall, when entitled to traveling expenses, be entitled to allowances in lieu of actual expenses for hotel accommodations, breakfast, lunch, and dinner, at the rates fixed by the State Board of Control from time to time in limitation of reimbursement of expenses of state employees generally. However, if an allowance for hotel accommodations, breakfast, lunch, and dinner is made by a committee at a rate in excess of the rate fixed by the State Board of Control, the chairman or chairwoman of the committee shall notify the Controller of that fact in writing.

### Appointment of Committees

36.5. This rule applies whenever a joint committee is created by a statute or resolution which either provides that appointments be made and vacancies be filled in the manner provided for in the Joint Rules, or makes no provision for the appointment of members or the filling of vacancies.

The Senate members of the committee shall be appointed by the Senate Committee on Rules; the Assembly members of the committee shall be appointed by the Speaker of the Assembly; and vacancies occurring in the membership of the committee shall be filled by the respective appointing powers. The members appointed shall hold over until their successors are regularly selected.

### Appointment of Joint Committee Chairmen or Chairwomen

36.7. The chairman or chairwoman of each joint committee heretofore or hereafter created, except the Joint Legislative Budget Committee and the Joint Legislative Audit Committee, shall be appointed by the Joint Rules Committee from a member or members recommended by the Senate Committee on Rules and the Speaker of the Assembly.

Joint Committee Funds

36.8. Each joint committee heretofore or hereafter created, except the Joint Legislative Budget Committee and the Joint Legislative Audit Committee, shall expend the funds heretofore or hereafter made available to it in compliance with the policies set forth by the Joint Rules Committee with respect to personnel, salaries, purchasing, office space assignment, contractual services, rental or lease agreements, travel, and any and all other matters relating to the management and administration of committee affairs.

Joint Legislative Budget Committee

37. In addition to any other committee provided for by these rules, there shall be a joint committee to be known as the Joint Legislative Budget Committee, which is hereby declared to be a continuing body.

It shall be the duty of the committee to ascertain facts and make recommendations to the Legislature and to the houses thereof concerning the state Budget, the revenues and expenditures of the state, and the organization and functions of the state and its departments, subdivisions, and agencies, with a view to reducing the cost of the state government and securing greater efficiency and economy.

The committee shall consist of eight Members of the Senate and eight Members of the Assembly. The Senate members of the committee shall be appointed by the Senate Committee on Rules. The Assembly members of the committee shall be appointed by the Speaker of the Assembly. The committee shall select its own chairman or chairwoman.

Any vacancy occurring at any time in the Senate membership of the Joint Legislative Budget Committee shall be filled by the Senate Committee on Rules, and the Senators appointed shall hold over until their successors are regularly selected. For the purposes of this rule, a vacancy shall be deemed to exist as to a Senator whose term is expiring whenever he or she is not reelected at the general election.

Any vacancy occurring at any time in the Assembly membership of the Joint Legislative Budget Committee shall be filled by appointment by the Speaker of the Assembly, and the Members of the Assembly appointed shall hold over between regular sessions until their successors are regularly selected. For the purposes of this rule, a vacancy shall be deemed to exist as to a Member of the Assembly whose term is expiring whenever he or she is not reelected at the general election.

The committee shall have the authority to make rules to govern its own proceedings and its employees. It may also create subcommittees from its membership, assigning to its subcommittees any study, inquiry, investigation, or hearing that the committee itself

has authority to undertake or hold. A subcommittee for the purpose of this assignment shall have and may exercise all the powers conferred upon the committee, limited only by the express terms of any rule or resolution of the committee defining the powers and duties of the subcommittee. Those powers may be withdrawn or terminated at any time by the committee.

The Joint Legislative Budget Committee may render services to any investigating committee of the Legislature pursuant to contract between the Joint Legislative Budget Committee and the committee for which the services are to be performed. The contract may provide for payment to the Joint Legislative Budget Committee of the cost of the services from the funds appropriated to the contracting investigating committee. All legislative investigating committees are authorized to enter into those contracts with the Joint Legislative Budget Committee. Money received by the Joint Legislative Budget Committee pursuant to any agreement shall be in augmentation of the current appropriation for the support of the Joint Legislative Budget Committee.

The provisions of Rule 36 shall apply to the Joint Legislative Budget Committee, which has all the authority provided in that rule or pursuant to Section 11 of Article IV of the Constitution.

The committee shall have authority to appoint a Legislative Analyst, to fix his or her compensation, to prescribe his or her duties, and to appoint any other clerical and technical employees as may appear necessary. The duties of the Legislative Analyst shall be as follows:

(1) To ascertain the facts and make recommendations to the Joint Legislative Budget Committee and, under its direction, to the committees of the Legislature concerning:

(a) The state Budget.

(b) The revenues and expenditures of the state.

(c) The organization and functions of the state and its departments, subdivisions, and agencies.

(2) To assist the Senate Budget and Fiscal Review Committee and the Assembly Committees on Appropriations and Budget in consideration of the Budget, all bills carrying express or implied appropriations, and all legislation affecting state departments and their efficiency; to appear before any other legislative committee; and to assist any other legislative committee upon instruction by the Joint Legislative Budget Committee.

(3) To provide all legislative committees and Members of the Legislature with information obtained under the direction of the Joint Legislative Budget Committee.

(4) To maintain a record of all work performed by the Legislative Analyst under the direction of the Joint Legislative Budget Committee, and to keep and make available all documents, data, and reports submitted to him or her by any Senate, Assembly, or joint committee. The committee may meet either during sessions of the

Legislature, any recess thereof, or after final adjournment, and may meet or conduct business at any place within the State of California.

The chairman or chairwoman of the committee or, in the event of that person's inability to act, the vice chairman or vice chairwoman, shall audit and approve the expenses of members of the committee or salaries of the employees, and all other expenses incurred in connection with the performance of its duties by the committee. The chairman or chairwoman shall certify to the Controller the expense amount approved, the Controller shall draw his or her warrants upon the certification of the chairman or chairwoman, and the Treasurer shall pay the same to the chairman or chairwoman of the committee, to be disbursed by the chairman or chairwoman.

On and after the commencement of a succeeding regular session, those members of the committee who continue to be Members of the Senate and Assembly, respectively, continue as members of the committee until their successors are appointed, and the committee continues with all its powers, duties, authority, records, papers, personnel, and staff, and all funds theretofore made available for its use.

Upon the conclusion of its work, any Assembly, Senate, or joint committee (other than a standing committee) shall deliver to the Legislative Analyst for use and custody all documents, data, reports, and other materials that have come into the possession of the committee and that are not included within the final report of the committee to the Assembly, Senate, or the Legislature, as the case may be. The documents, data, reports, and other materials shall be available, upon request, to Members of the Legislature, the Senate Office of Research, and the Assembly Office of Research.

The Legislative Analyst, with the consent of the committee, shall make available to any Member or committee of the Legislature any other reports, records, documents, or other data under his or her control, except that reports prepared by the Legislative Analyst in response to a request from a Member or committee of the Legislature shall be made available only with the written permission of the member or committee who made the request.

The Legislative Analyst, upon the receipt of a request from any committee or Member of the Legislature to conduct a study or provide information that falls within the scope of his or her responsibilities and that concerns the administration of the government of the State of California, shall at once advise the Joint Legislative Budget Committee of the nature of the request without disclosing the name of the Member or committee making the request.

The Legislative Analyst shall immediately undertake to provide the requesting committee or legislator with the service or information requested, and shall inform the committee or legislator of the approximate date when this information will be available.

Should there be any material delay, he or she shall subsequently communicate this fact to the requester.

Neither the Committee on Rules of either house nor the Joint Rules Committee may assign any matter for study to the Joint Legislative Budget Committee or the Legislative Analyst without first obtaining from the Joint Legislative Budget Committee an estimate of the amount required to be expended by it to make the study.

Any concurrent, joint, Senate, or House resolution assigning a study to the Joint Legislative Budget Committee or to the Legislative Analyst shall be referred to the respective rules committees. Before the committees may act upon or assign the resolution, they shall obtain an estimate from the Joint Legislative Budget Committee of the amount required to be expended to make the study.

## Citizen Cost Impact Report

37.1. Any Member or committee of the Legislature may recommend that the Legislative Analyst prepare a citizen cost impact analysis on proposed legislation. However, the recommendation shall first be reviewed by the Committee on Rules of the house where the recommendation originated, and this committee shall make the final determination as to which bills shall be assigned for preparation of an impact analysis.

In selecting specific bills for assignment to the Legislative Analyst for preparation of citizen cost impact analyses, the Committee on Rules shall request the Legislative Analyst to present an estimate of his or her time and prospective costs for preparing the analyses. Only those bills that have a potential significant cost impact shall be assigned. Where necessary, the Committee on Rules shall provide funds to offset added costs incurred by the Legislative Analyst.

The citizen cost impact analyses shall include those economic effects that the Legislative Analyst deems significant and that he or she believes will result directly from the proposed legislation. Insofar as feasible, the economic effects considered by the Legislative Analyst shall include, but are not limited to, the following:

(a) The economic effect on the public generally.

(b) Any specific economic effect on persons or businesses in the case of legislation that is regulatory.

The Legislative Analyst shall submit the citizen cost impact analyses to the committee or committees when completed, and at the time or times designated by the Committee on Rules.

The Legislative Analyst shall submit from time to time, but at least once a year, a report to the Legislature on the trends and directions of the state's economy, and shall list the alternatives and make recommendations as to legislative actions that, in his or her judgment, will insure a sound and stable state economy.

## Joint Legislative Audit Committee

37.3. The Joint Legislative Audit Committee is created pursuant to the Legislature's rulemaking authority under the California Constitution, and pursuant to Chapter 4 (commencing with Section 10500) of Part 2 of Division 2 of Title 2 of the Government Code. The committee shall consist of seven Members of the Senate and seven Members of the Assembly, who shall be selected in the manner provided for in these rules. Notwithstanding any other provision of these rules, four members from each house constitute a quorum of the Joint Legislative Audit Committee and the number of votes necessary to take action on any matter. The Chairman or Chairwoman of the Joint Legislative Audit Committee, upon receiving a request by any Member of the Legislature or committee thereof for a copy of a report prepared or being prepared by the Bureau of State Audits, shall provide the member or committee with a copy of the report when it is, or has been, submitted by the Bureau of State Audits to the Joint Legislative Audit Committee.

## Study or Audits

37.4. (a) Notwithstanding any other provision of law, the Joint Legislative Audit Committee shall establish priorities and assign all work to be done by the Bureau of State Audits.

(b) Any bill requiring action by the Bureau of State Audits shall contain an appropriation for the cost of any study or audit.

(c) Any bill or concurrent, joint, Senate, or House resolution assigning a study to the Joint Legislative Audit Committee or to the Bureau of State Audits shall be referred to the respective rules committees. Before the committees may act upon or assign the bill or resolution, they shall obtain an estimate from the Joint Legislative Audit Committee of the amount required to be expended to make the study.

## Waiver

37.5. Subdivision (b) of Rule 37.4 may be waived by the Joint Legislative Audit Committee. The chairman or chairwoman of the committee shall notify the Secretary of the Senate, the Chief Clerk of the Assembly, and the Legislative Counsel in writing when subdivision (b) of Rule 37.4 has been waived. If the cost of a study or audit is less than one hundred thousand dollars ($100,000), the chairman or chairwoman of the committee may exercise the committee's authority to waive subdivision (b) of Rule 37.4.

## Administrative Regulations

37.7. (a) Any Member of the Senate may request the Senate Committee on Rules, and any Member of the Assembly may request the Speaker of the Assembly, to direct a standing committee or the Office of Research of his or her respective house to study any proposed or existing regulation or group of related regulations. Upon receipt of a request, the Senate Committee on Rules or the Speaker of the Assembly shall, after review, determine whether a study shall be made. In reviewing the request, the Senate Committee on Rules or the Speaker of the Assembly shall determine:

(1) The cost of making the study.

(2) The potential public benefit to be derived from the study.

(3) The scope of the study.

(b) The study may consider, among other relevant issues, whether the proposed or existing regulation:

(1) Exceeds the agency's statutory authority.

(2) Fails to conform to the legislative intent of the enabling statute.

(3) Contradicts or duplicates other regulations adopted by federal, state, or local agencies.

(4) Involves an excessive delegation of regulatory authority to a particular state agency.

(5) Unfairly burdens particular elements of the public.

(6) Imposes social or economic costs that outweigh its intended benefits to the public.

(7) Imposes unreasonable penalties for violation.

The respective reviewing unit shall, in a timely manner, transmit its concerns, if any, to the Senate Committee on Rules or the Speaker of the Assembly, and the promulgating agency.

In the event that a state agency takes a regulatory action that the reviewing unit finds to be unacceptable, the unit shall file a report for publication in the daily journal of its respective house indicating the specific reasons why the regulatory action should not have been taken. The report may include a recommendation that the Legislature adopt a concurrent resolution requesting the state agency to reconsider its action or that the Legislature enact a statute to restrict the regulatory powers of the state agency taking the action.

## Joint Rules Committee

40. The Joint Rules Committee is hereby created. The committee has a continuing existence and may meet, act, and conduct its business during sessions of the Legislature or any recess thereof.

The committee shall consist of the members of the Assembly Committee on Rules, the Assembly Majority Floor Leader, the Assembly Minority Floor Leader, the Speaker of the Assembly, four members of the Senate Committee on Rules, and as many Members

of the Senate as may be required to maintain equality in the number of Assembly Members and Senators on the committee, to be appointed by the Senate Committee on Rules. Vacancies occurring in the membership shall be filled by the appointing power.

The committee and its members shall have and exercise all of the rights, duties, and powers conferred upon investigating committees and their members by the Joint Rules of the Senate and Assembly as they are adopted and amended from time to time, which provisions are incorporated herein and made applicable to this committee and its members.

The committee shall ascertain facts and make recommendations to the Legislature and to the houses thereof concerning:

(a) The relationship between the two houses and procedures calculated to expedite the affairs of the Legislature by improving that relationship.

(b) The legislative branch of the state government and any defects or deficiencies in the law governing that branch.

(c) Methods whereby legislation is proposed, considered, and acted upon.

(d) The operation of the Legislature and the committees thereof, and the means of coordinating the work thereof and avoiding duplication of effort.

(e) Aids to the Legislature.

(f) Information and statistics for the use of the Legislature, the respective houses thereof, and the members.

Any matter of business of either house, the transaction of which would affect the interests of the other house, may be referred to the committee for action if the Legislature is not in recess, and shall be referred to the committee for action if the Legislature is in recess.

The committee has the following additional powers and duties:

(a) To select a chairman or chairwoman from its membership. The vice chairman or vice chairwoman of the committee shall be one of the Senate members of the committee, to be selected by the Senate Committee on Rules.

(b) To allocate space in the State Capitol Building and all annexes and additions thereto as provided by law.

(c) To approve, as provided by law, the appearance of the Legislative Counsel in litigation.

(d) To contract with other agencies, public or private, for the rendition and affording of services, facilities, studies, and reports to the committee as the committee deems necessary to assist it to carry out the purposes for which it is created.

(e) To cooperate with and secure the cooperation of county, city, city and county, and other local law enforcement agencies in investigating any matter within the scope of this rule, and to direct the sheriff of any county to serve subpoenas, orders, and other process issued by the committee.

(f) To report its findings and recommendations, including recommendations for the needed revision of any and all laws and constitutional provisions relating to the Legislature, to the Legislature and to the people from time to time.

(g) The committee, and any subcommittee when so authorized by the committee, may meet and act without as well as within the State of California, and is authorized to leave the state in the performance of its duties.

(h) To expend funds as may be made available to it to carry out the functions and activities related to the legislative affairs of the Senate and Assembly.

(i) To appoint a chief administrative officer of the committee, who shall have duties relating to the administrative, fiscal, and business affairs of the committee as the committee shall prescribe. The committee may terminate the services of the chief administrative officer at any time.

(j) To employ persons as may be necessary to assist all other joint committees, except the Joint Legislative Budget Committee and the Joint Legislative Audit Committee, in the exercise of their powers and performance of their duties. In accordance with Rule 36.8, the committee shall govern and administer the expenditure of funds by other joint committees, requiring that the claims of joint committees be approved by the Joint Rules Committee or its designee. All expenses of the committee and of all other joint committees may be paid from the Operating Funds of the Assembly and Senate.

(k) To appoint the chairmen or chairwomen of joint committees, as authorized by Rule 36.7.

(*l*) To do any and all other things necessary or convenient to enable it fully and adequately to exercise its powers, perform its duties, and accomplish the objects and purposes of this rule.

The members of the Joint Rules Committee from the Senate may meet separately as a unit, and the members of the Joint Rules Committee from the Assembly may meet separately as a unit, and consider any action that is required to be taken by the Joint Rules Committee. If the majority of members of the Joint Rules Committee of each house at the separate meetings vote in favor of that action, the action shall be deemed to be action taken by the Joint Rules Committee.

The Joint Rules Committee shall meet not less than biweekly during a session of the Legislature, other than during a joint recess, at a regularly scheduled time and place. If the full committee fails to so meet, the members of the committee from the Senate shall meet separately as a unit and the members of the committee from the Assembly shall meet separately as a unit within five days of the regularly scheduled meeting date.

The committee shall succeed to, and is vested with, all of the powers and duties of the Joint Committee on Legislative Organization, the State Capitol Committee, the Joint Committee on

Interhouse Cooperation, the Joint Legislative Committee for School Visitations, and the Joint Standing Committee on the Joint Rules of the Senate and the Assembly.

Review of Administrative Regulations

40.1. The Joint Rules Committee, with regard to joint committees, and the respective rules committee of each house, with regard to standing and select committees of the house, shall approve any request for a priority review made by a committee pursuant to Section 11349.7 of the Government Code and shall submit approved requests to the Office of Administrative Law. The Joint Rules Committee or the respective rules committee, and the committee initiating the request, shall each receive a copy of the priority review.

Subcommittee on Legislative Space and Facilities

40.3. (a) A subcommittee of the Joint Rules Committee is hereby created, to be known as the Subcommittee on Legislative Space and Facilities. The subcommittee shall consist of three Members of the Senate and three Members of the Assembly, appointed by the Chairman or Chairwoman of the Joint Rules Committee, and the chairman or chairwoman of the fiscal committee of each house who shall have full voting rights on the subcommittee. The chairman or chairwoman of the subcommittee shall be appointed by the members thereof. For purposes of this subcommittee, the chairmen or chairwomen of the fiscal committees shall be ex officio members of the Joint Rules Committee, but shall not have voting rights on that committee, nor shall they be counted in determining a quorum. The subcommittee shall consider the housing of the Legislature and legislative facilities.

(b) The subcommittee and its members shall have and exercise all of the rights, duties, and powers conferred upon investigating committees and their members by the Joint Rules of the Senate and Assembly as they are adopted and amended from time to time, which provisions are incorporated herein and made applicable to this subcommittee and its members.

(c) The subcommittee has the following additional powers and duties:

(1) To contract with other agencies, public or private, for the rendition and affording of services, facilities, studies, and reports to the subcommittee as the committee deems necessary to assist it to carry out the purposes for which it is created.

(2) To cooperate with and secure the cooperation of county, city, city and county, and other local law enforcement agencies in investigating any matter within the scope of this rule, and to direct the sheriff of any county to serve subpoenas, orders, and other process issued by the subcommittee.

(3) To report its findings and recommendations to the Legislature and to the people from time to time.

(4) To do any and all other things necessary or convenient to enable it fully and adequately to exercise its powers, perform its duties, and accomplish the objects and purposes of this rule.

(d) The subcommittee is authorized to leave the State of California in the performance of its duties.

## Claims for Workers' Compensation

41. The Chairman or Chairwoman of the Committee on Rules of each house, or a designated representative, shall sign any required worker's compensation report regarding injuries or death arising out of and within the course of employment suffered by any member, officer, or employee of the house, or any employee of a standing or investigating committee thereof. In the case of a joint committee, the Chairman or Chairwoman of the Committee on Rules of either house, or a designated representative, may sign any report with respect to a member or employee of a joint committee.

## Information Concerning Committees

42. The Committee on Rules of each house shall provide for a continuous cumulation of information concerning the membership, organization, meetings, and studies of legislative investigating committees. Each Committee on Rules shall be responsible for information concerning the investigating committees of its own house, and concerning joint investigating committees under a chairman or chairwoman who is a member of that house. To the extent possible, each Committee on Rules shall seek to insure that the investigating committees for which it has responsibility under this rule have organized, including the organization of any subcommittees, and have had all topics for study assigned to them within a reasonable period of time.

The information thus cumulated shall be made available to the public by the Committee on Rules of each house and shall be published periodically under their joint direction.

## Joint Committees

43. Any concurrent resolution creating a joint committee of the Legislature and any concurrent resolution allocating moneys from the Operating Funds of the Assembly and Senate to the committee shall be referred to the Committee on Rules of the respective houses.

Conflict of Interest

44. (a) No Member of the Legislature may, while serving, have any interest, financial or otherwise, direct or indirect, engage in any business or transaction or professional activity, or incur any obligation of any nature, that is in substantial conflict with the proper discharge of his or her duties in the public interest and of his or her responsibilities as prescribed by the laws of this state.

(b) No Member of the Legislature may, during the term for which he or she was elected:

(1) Accept other employment that he or she has reason to believe will either impair his or her independence of judgment as to his or her official duties, or require him or her, or induce him or her, to disclose confidential information acquired by him or her in the course of and by reason of his or her official duties.

(2) Willfully and knowingly disclose, for pecuniary gain, to any other person, confidential information acquired by him or her in the course of and by reason of his or her official duties, or use the information for the purpose of pecuniary gain.

(3) Accept or agree to accept, or be in partnership with any person who accepts or agrees to accept, any employment, fee, or other thing of value, or portion thereof, in consideration of his or her appearance, agreeing to appear, or taking of any other action on behalf of another person regarding a licensing or regulatory matter, before any state board or agency that is established by law for the primary purpose of licensing or regulating the professional activity of persons licensed, pursuant to state law.

This rule may not be construed to prohibit a member who is an attorney at law from practicing in that capacity before the Workers' Compensation Appeals Board or the Commissioner of Corporations, and receiving compensation therefor, or from practicing for compensation before any state board or agency in connection with, or in any matter related to, any case, action, or proceeding filed and pending in any state or federal court. This rule does not prohibit a member from making inquiry for information on behalf of a constituent before a state board or agency, if no fee or reward is given or promised in consequence thereof. The prohibition contained in this rule does not apply to a partnership in which a Member of the Legislature is a member if the Member of the Legislature does not share directly or indirectly in the fee resulting from the transaction, nor does it apply in connection with any matter pending before any state board or agency on the operative date of this rule if the affected Member of the Legislature is attorney of record or representative in the matter prior to the operative date.

(4) Receive or agree to receive, directly or indirectly, any compensation, reward, or gift from any source except the State of California for any service, advice, assistance, or other matter related to the legislative process, except fees for speeches or published works

on legislative subjects and except, in connection therewith, the reimbursement of expenses for actual expenditures for travel and reasonable subsistence for which no payment or reimbursement is made by the State of California.

(5) Participate, by voting or any other action, on the floor of either house, or in committee or elsewhere, in the enactment or defeat of legislation in which he or she has a personal interest, except as follows:

(i) If, on the vote for final passage, by the house of which he or she is a member, of the legislation in which he or she has a personal interest, he or she first files a statement (which shall be entered verbatim in the journal) stating in substance that he or she has a personal interest in the legislation to be voted on and that, notwithstanding that interest, he or she is able to cast a fair and objective vote on the legislation, he or she may cast his or her vote without violating any provision of this rule.

(ii) If the member believes that, because of his or her personal interest, he or she should abstain from participating in the vote on the legislation, he or she shall so advise the presiding officer prior to the commencement of the vote and shall be excused from voting on the legislation without any entry in the journal of the fact of his or her personal interest. In the event that a rule of the house requiring that each member who is present vote aye or nay is invoked, the presiding officer shall order the member excused from compliance and shall order entered in the journal a simple statement that the member was excused from voting on the legislation pursuant to law.

(c) A person subject to this rule has an interest that is in substantial conflict with the proper discharge of his or her duties in the public interest and of his or her responsibilities as prescribed by the laws of this state, or a personal interest, arising from any situation, within the scope of this rule, if he or she has reason to believe or expect that he or she will derive a direct monetary gain or suffer a direct monetary loss, as the case may be, by reason of his or her official activity. He or she does not have an interest that is in substantial conflict with the proper discharge of his or her duties in the public interest and of his or her responsibilities as prescribed by the laws of this state, or a personal interest, arising from any situation, within the scope of this rule, if any benefit or detriment accrues to him or her as a member of a business, profession, occupation, or group to no greater extent than any other member of the business, profession, occupation, or group.

(d) A person who is subject to this rule shall not be deemed to be engaged in any activity that is in substantial conflict with the proper discharge of his or her duties in the public interest and of his or her responsibilities as prescribed by the laws of this state, or to have a personal interest, arising from any situation, within the scope of this rule, solely by reason of any of the following:

(1) His or her relationship to any potential beneficiary of any situation is one that is defined as a remote interest by Section 1091 of the Government Code or is otherwise not deemed to be a prohibited interest under Section 1091.1 or 1091.5 of the Government Code.

(2) Receipt of a campaign contribution that is regulated, received, reported, and accounted for pursuant to Chapter 4 (commencing with Section 84100) of Title 9 of the Government Code, so long as the contribution is not made on the understanding or agreement, in violation of law, that the person's vote, opinion, judgment, or action will be influenced thereby.

(e) The enumeration in this rule of specific situations or conditions that are deemed not to result in substantial conflict with the proper discharge of the duties and responsibilities of a legislator or legislative employee, or in a personal interest, shall not be construed as exclusive.

The Legislature, in adopting this rule, recognizes that Members of the Legislature and legislative employees may need to engage in employment, professional, or business activities other than legislative activities in order to maintain a continuity of professional or business activity, or may need to maintain investments, which activities or investments do not conflict with specific provisions of this rule. However, in construing and administering this rule, weight should be given to any coincidence of income, employment, investment, or other profit from sources that may be identified with the interests represented by those sources that are seeking action of any character on matters then pending before the Legislature.

(f) No employee of either house of the Legislature may, during the time he or she is so employed, commit any act or engage in any activity prohibited by any part of this rule.

(g) No person may induce or seek to induce any Member of the Legislature to violate any part of this rule.

(h) Violations of any part of this rule are punishable as provided in Section 8926 of the Government Code.

## Ethics Committees

45. The Senate Committee on Legislative Ethics and the Assembly Legislative Ethics Committee, respectively, shall receive complaints concerning Members of their respective houses, and shall have the power to investigate and make findings and recommendations concerning violations by Members of their respective houses of Article 2 (commencing with Section 8920) of Chapter 1 of Part 1 of Division 2 of Title 2 of the Government Code. Each house shall adopt rules governing the establishment and procedures of the committee of that house.

Designating Legislative Sessions

50. Regular sessions shall be identified with the odd-numbered year subsequent to each general election, followed by a hyphen, and then the last two digits of the following even-numbered year. For example: 1973–74 Regular Session.

Designating Extraordinary Sessions

50.3. All extraordinary sessions shall be designated in numerical order by the session in which convened.

Days and Dates

50.5. (a) As used in these rules, “day” means a calendar day, unless otherwise specified.

(b) When the date of a deadline, recess requirement, or circumstance falls on a Saturday, Sunday, or Monday that is a holiday, the date shall be deemed to refer to the preceding Friday. When the date falls on a holiday on a weekday other than a Monday, the date shall be deemed to refer to the preceding day.

Legislative Calendar

51. (a) The Legislature shall observe the following calendar during the first year of the regular session:

(1) Organizational Recess—The Legislature shall meet on the first Monday in December following the general election to organize. Thereafter, each house shall be in recess from the time it determines until the first Monday in January, except when the first Monday is January 1 or January 1 is a Sunday, in which case, the following Wednesday.

(2) Easter Recess—The Legislature shall be in recess from the 10th day prior to Easter until the Monday after Easter.

(3) Summer Recess—The Legislature shall be in recess from July 18 until August 18. This recess shall not commence until the Budget Bill is enacted.

(4) Interim Study Recess—The Legislature shall be in recess from September 12 until the first Monday in January, except when the first Monday is January 1 or January 1 is a Sunday, in which case, the following Wednesday.

(b) The Legislature shall observe the following calendar for the remainder of the legislative session:

(1) Easter Recess—The Legislature shall be in recess from the 10th day prior to Easter until the Monday after Easter.

(2) Summer Recess—The Legislature shall be in recess from July 3 until August 3. This recess shall not commence until the Budget Bill is enacted.

(3) Final Recess—The Legislature shall be in recess on August 31 until adjournment sine die on November 30.

(c) Recesses shall be from the hour of adjournment on the day specified, to reconvene at the time designated by the respective houses.

(d) The recesses specified by this rule shall be designated as joint recesses.

## Recall From Recess

52. Notwithstanding the power of the Governor to call a special session, the Legislature may be recalled from joint recess and reconvene in regular session by any of the following means:

(a) It may be recalled by joint proclamation, which shall be entered in the journal, of the Senate Committee on Rules and the Speaker of the Assembly or, in his or her absence from the state, the Assembly Committee on Rules.

(b) Ten or more Members of the Legislature may present a request for recall from joint recess to the Chief Clerk of the Assembly and the Secretary of the Senate. The request shall immediately be printed in the journal. Within 10 days thereafter, the Speaker of the Assembly or, if the Speaker is absent from the state, the Assembly Committee on Rules, and the Senate Committee on Rules shall act upon the request. If they concur in desiring to recall the Legislature from joint recess, they shall issue their joint proclamation to that effect entered in the journal no later than 20 days after publication of the request in the journal.

(c) If either or both of the parties specified in subdivision (b) does not concur, 10 or more Members of the Legislature may request the Chief Clerk of the Assembly or the Secretary of the Senate to petition the membership of the respective house. The petition shall be entered in the journal and shall contain a specified reconvening date commencing not later than 20 days after the date of the petition. If two-thirds of the members of the house or each of the two houses concur, the Legislature shall reconvene on the date specified. The necessary concurrences must be received at least 10 days prior to the date specified for reconvening.

## Procedure on Suspending Rules by Single House

53. Whenever these rules authorize suspension of the Joint Rules as to a particular bill by action of a single house after approval by the Committee on Rules of that house, the following procedure shall be followed:

(a) A written request to suspend the joint rule shall be filed with the Chief Clerk of the Assembly or the Secretary of the Senate, as the case may be, and shall be transmitted to the Committee on Rules of the appropriate house.

(b) The Assembly Committee on Rules or the Senate Committee on Rules, as the case may be, shall determine whether there exists an urgent need for the suspension of the joint rule with regard to the bill.

(c) If the appropriate rules committee recommends that the suspension be permitted, the member may offer a resolution, without further reference thereof to committee, granting permission to suspend the joint rule. The adoption of the resolution granting permission shall require an affirmative recorded vote of the elected members of the house in which the request is made.

## Introduction of Bills

54. (a) No bill may be introduced in the first year of the regular session after February 28 and no bill may be introduced in the second year of the regular session after February 20. These deadlines do not apply to constitutional amendments, committee bills introduced pursuant to Assembly Rule 47 or Senate Rule 23, bills introduced in the Assembly with the permission of the Speaker of the Assembly, or bills introduced in the Senate with the permission of the Senate Committee on Rules. Subject to these deadlines, a bill may be introduced at any time except when the houses are in joint summer, interim, or final recess. Each house may provide for introduction of bills during a recess other than a joint recess. Bills shall be numbered consecutively during the regular session.

(b) The Desks of the Senate and Assembly shall remain open during a joint recess, other than a joint Easter, summer, interim, or final recess, for the introduction of bills during business hours on Monday through Friday, inclusive, except holidays. Bills received at the Senate Desk during these periods shall be numbered and printed. After printing, the bills shall be delivered to the Secretary of the Senate and referred by the Senate Committee on Rules to a standing committee. Bills received at the Assembly Desk during these periods shall be numbered, printed, and referred to a committee by the Assembly Committee on Rules. After printing, the bills shall be delivered to the Chief Clerk of the Assembly. On the reconvening of each house, the bills shall be read the first time, and shall be delivered to the committee to which they were referred.

(c) A member may not author a bill during a session that would have substantially the same effect as a bill he or she previously introduced during that session. This restriction does not apply in cases where the previously introduced bill was vetoed by the Governor or its provisions were "chaptered out" by a later chaptered bill pursuant to Section 9605 of the Government Code. An objection based on this restriction may be raised only while the bill is being considered by the house in which it is introduced. The objection shall be referred to the Committee on Rules of the house for a determination. The bill shall remain on file or with a committee, as the case may be, until a determination is made. If, upon consideration

of the objection, the Committee on Rules determines that the bill objected to would have substantially the same effect as another bill previously introduced during the session by the author, the bill objected to shall be stricken from the file or returned to the desk by the committee, as the case may be, and may not be acted upon during the remainder of the session. If the Committee on Rules determines that the bill objected to would not have substantially the same effect as a bill previously introduced during the session by the author, the bill may thereafter be acted upon by the committee or the house, as the case may be. The Committee on Rules may obtain assistance as it may desire from the Legislative Counsel as to the similarity of a bill or amendments to a prior bill.

This joint rule may be suspended by approval of the Committee on Rules and three-fourths vote of the membership of the house.

(d) During a joint recess, the Chief Clerk of the Assembly or Secretary of the Senate shall order the preparation of preprint bills when so ordered by any of the following:

(1) The Speaker of the Assembly.

(2) The Committee on Rules of the respective house.

(3) A committee, with respect to bills within the subject matter jurisdiction of the committee.

Preprint bills shall be designated and shall be printed in the order received and numbered in the order printed. To facilitate subsequent amendment, a preprint bill shall be so prepared that, when introduced as a bill, the page and the line numbers will not change. The Chief Clerk of the Assembly and Secretary of the Senate shall publish a list periodically of preprint bills showing the preprint bill number, the title, and the Legislative Counsel's Digest. The Speaker of the Assembly and Senate Committee on Rules may refer any preprint bill to committee for study.

## 30-Day Waiting Period

55. No bill other than the Budget Bill may be heard or acted upon by committee or either house until the bill has been in print for 30 days. The date a bill is returned from the printer shall be entered in the history. This rule may be suspended concurrently with the suspension of the requirement of Section 8 of Article IV of the Constitution or, if that period has expired, this rule may be suspended by approval of the Committee on Rules and two-thirds vote of the house in which the bill is being considered.

## Return of Bills

56. Bills introduced in the first year of the regular session and passed by the house of origin on or before the January 31st constitutional deadline are "carryover bills." Immediately after January 31, bills introduced in the first year of the regular session that

do not become “carryover bills” shall be returned to the Chief Clerk of the Assembly or Secretary of the Senate, respectively. Notwithstanding Rule 4, as used in this rule, “bills” does not include constitutional amendments.

### Appropriation Bills

57. Appropriation bills that may not be sent to the Governor shall be held, after enrollment, by the Chief Clerk of the Assembly or Secretary of the Senate, respectively. The bills shall be sent to the Governor immediately after the Budget Bill has been enacted.

### Urgency Clauses

58. An amendment to add a section to a bill to provide that the act shall take effect immediately as an urgency statute may not be adopted unless the author of the amendment has first secured the approval of the Committee on Rules of the house in which the amendments are offered.

### Vetoes

58.5. The Legislature may consider a Governor’s veto for only 60 days, not counting days when the Legislature is in joint recess.

### Publications

59. During periods of joint recess, weekly, if necessary, the following documents shall be published: files, histories, and journals.

### Committee Hearings

60. (a) No standing committee or subcommittee thereof may take action on a bill at any hearing held outside of Sacramento.

(b) A committee may hear the subject matter of a bill or convene for an informational hearing during a period of recess. Four days’ notice in the daily file is required prior to the hearing.

(c) No bill may be acted upon by a committee during a joint recess.

### Deadlines

61. The deadlines set forth in this rule shall be observed by the Senate and Assembly. After each deadline, the Secretary of the Senate and the Chief Clerk of the Assembly may not accept committee reports from their respective committees except as otherwise provided in this rule:

(a) Odd-numbered year:

(1) Feb. 28—Last day for bills to be introduced.

(2) April 25—Last day for policy committees to hear and report to fiscal committees fiscal bills introduced in their house.

(3) May 16—Last day for policy committees to hear and report to the floor nonfiscal bills introduced in their house.

(4) May 23—Last day for policy committees to meet prior to June 9.

(5) May 30—Last day for fiscal committees to hear and report to the floor bills introduced in their house.

(6) May 30—Last day for fiscal committees to meet prior to June 9.

(7) June 6—Last day for each house to pass bills introduced in that house.

(8) June 9—Committee meetings may resume.

(9) July 18—Last day for policy committees to meet and report bills.

(10) Aug. 29—Last day for fiscal committees to meet and report bills.

(11) Sept. 1 through Sept. 12—Floor session only. No committee may meet for any purpose.

(12) Sept. 12—Last day for each house to pass bills.

(b) Even-numbered year:

(1) Jan. 16—Last day for policy committees to hear and report to fiscal committees fiscal bills introduced in their house in the odd-numbered year.

(2) Jan. 23—Last day for any committee to hear and report to the floor bills introduced in that house in the odd-numbered year.

(3) Jan. 31—Last day for each house to pass bills introduced in that house in the odd-numbered year.

(4) Feb. 20—Last day for bills to be introduced.

(5) April 24—Last day for policy committees to hear and report to fiscal committees fiscal bills introduced in their house.

(6) May 8—Last day for policy committees to hear and report to the floor nonfiscal bills introduced in their house.

(7) May 15—Last day for policy committees to meet prior to June 1.

(8) May 22—Last day for fiscal committees to hear and report to the floor bills introduced in their house.
(9) May 22—Last day for fiscal committees to meet prior to June 1.
(10) May 29—Last day for each house to pass bills introduced in that house.
(11) June 1—Committee meetings may resume.
(12) July 3—Last day for policy committees to meet and report bills.
(13) Aug. 14—Last day for fiscal committees to meet and report bills.
(14) Aug. 17 through Aug. 31—Floor session only. No committee may meet for any purpose.
(15) Aug. 31—Last day for each house to pass bills.

(c) If a bill is acted upon in committee before the relevant deadline, and the committee votes to report the bill out with amendments that have not at the time of the vote been prepared by the Legislative Counsel, the Secretary of the Senate and the Chief Clerk of the Assembly may subsequently receive a report recommending the bill for passage or for rereferral together with the amendments at any time within two legislative days after the deadline or, if the Legislature has recessed for the Summer Recess, within seven calendar days after the deadline.

(d) Notwithstanding subdivisions (a) and (b), a policy committee may report a bill to a fiscal committee on or before the relevant deadline for reporting nonfiscal bills to the floor if, after the policy committee deadline for reporting the bill to fiscal committee, the Legislative Counsel's Digest is changed to indicate reference to fiscal committee.

(e) Any bill in the house of origin that is not acted upon during the odd-numbered year as a result of the deadlines imposed in subdivision (a) may be acted upon when the Legislature reconvenes after the interim study joint recess, or at any time the Legislature is recalled from the interim study joint recess.

(f) The deadlines imposed by this rule do not apply to the rules committees of the respective houses.

(g) The deadlines imposed by this rule do not apply in instances where a bill is referred to committee under Rule 26.5.

(h) The deadlines imposed by this rule do not apply in instances where a bill is referred to a committee under Assembly Rule 77.2.

(i) (1) Notwithstanding subdivisions (a) and (b), a policy committee or fiscal committee may meet for the purpose of hearing and reporting a constitutional amendment, or a bill that would go into immediate effect pursuant to subdivision (c) of Section 8 of

Article IV of the California Constitution, at any time other than those periods when no committee may meet for any purpose.

(2) Notwithstanding subdivisions (a) and (b), either house may meet for the purpose of considering and passing a constitutional amendment, or a bill that would go into immediate effect pursuant to subdivision (c) of Section 8 of Article IV of the California Constitution, at any time during the session.

(j) This rule may be suspended as to any particular bill by approval of the Committee on Rules and two-thirds vote of the membership of the house.

Committee Procedure

62. (a) Notice of a hearing on a bill by the committee of first reference in each house, or notice of an informational hearing, shall be published in the file at least four days prior to the hearing. Otherwise, notice shall be published in the file two days prior to the hearing. That notice requirement may be waived by a majority vote of the house in which the bill is being considered. A bill may be set for hearing in a committee only three times. A bill is "set," for purposes of this subdivision, whenever notice of the hearing has been published in the file for one or more days. If a bill is set for hearing, and the committee, on its own initiation and not the author's, postpones the hearing on the bill or adjourns the hearing while testimony is being taken, that hearing shall not be counted as one of the three times a bill may be set. After hearing the bill, the committee may vote on the bill. If the hearing notice in the file specifically indicates that "testimony only" will be taken, that hearing shall not be counted as one of the three times a bill may be set. A committee may not vote on a bill so noticed until it has been heard in accordance with this rule. After a committee has voted on a bill, reconsideration may be granted only one time. Reconsideration may be granted within 15 legislative days or prior to the interim study joint recess, whichever first occurs. A vote on reconsideration may not be taken without the same notice required to set a bill unless that vote is taken at the same meeting at which the vote to be reconsidered was taken, and the author is present. When a bill fails to get the necessary votes to pass it out of committee, or upon failure to receive reconsideration, it shall be returned to the Chief Clerk of the Assembly or Secretary of the Senate of the house of the committee and may not be considered further during the session.

This subdivision may be suspended with respect to a particular bill by approval of the Committee on Rules and two-thirds vote of the members of the house.

(b) If the committee adopts amendments other than those offered by the author and orders the bill reprinted prior to its further consideration, the hearing shall not be the final time a bill may be set under subdivision (a) of this rule.

(c) When a standing committee takes action on a bill, the vote shall be by roll call vote only. All roll call votes taken by a standing committee shall be recorded by the committee secretary on forms provided by the Chief Clerk of the Assembly and the Secretary of the Senate. The chairman or chairwoman of each standing committee shall promptly transmit a copy of the record of the roll call votes to the Chief Clerk of the Assembly or the Secretary of the Senate, respectively, who shall cause the votes to be published as prescribed by each house.

This subdivision also applies to action of a committee on a subcommittee report. The rules of each house shall prescribe the procedure as to roll call votes on amendments.

Any committee may, with the unanimous consent of the members present, substitute a roll call from a prior bill, provided that the members whose votes are substituted are present at the time of the substitution.

At no time shall a bill be passed out by a committee without a quorum being present.

This subdivision does not apply to:

(1) Procedural motions that do not have the effect of disposing of a bill.

(2) Withdrawal of a bill from a committee calendar at the request of an author.

(3) Return of a bill to the house where the bill has not been voted on by the committee.

(4) The assignment of a bill to committee.

(d) The chairman or chairwoman of the committee hearing a bill may, at any time, order a call of the committee. Upon a request by any member of a committee or the author in person, the chairman or chairwoman shall order the call.

In the absence of a quorum, a majority of the members present may order a quorum call of the committee and compel the attendance of absentees. The chairman or chairwoman shall send the Sergeant at Arms for those members who are absent and not excused by their respective house.

When a call of a committee is ordered by the chairman or chairwoman with respect to a particular bill, he or she shall send the Sergeant at Arms, or any other person to be appointed for that purpose, for those members who have not voted on that particular bill and are not excused.

A quorum call or a call of the committee with respect to a particular bill may be dispensed with by the chairman or chairwoman without objection by any member of the committee, or by a majority of the members present.

If a motion is adopted to adjourn the committee while the committee is operating under a call, the call shall be dispensed with and any pending vote announced.

The committee secretary shall record the votes of members answering a call. The rules of each house may prescribe additional procedures for a call of a committee.

Redistricting Bills

62.5. This rule applies only to bills affecting the boundaries of legislative, congressional, or State Board of Equalization districts.

(a) Except as specifically provided in this rule, Rules 28, 28.1, 29, 29.5, 30, 30.5, 30.7, 61 (except for paragraph (12) of subdivision (a) and paragraph (15) of subdivision (b) of Rule 61), and 62 shall not apply to bills affecting the boundaries of legislative, congressional, or State Board of Equalization districts.

(b) If the Senate (in the case of a Senate bill) or the Assembly (in the case of an Assembly bill) refuses to concur in amendments to a bill made by the other house, a committee on conference shall be appointed. The Speaker of the Assembly and the Senate Committee on Rules shall each appoint a committee on conference of three members, consisting of two members of the majority party and one member not of the majority party. The Secretary of the Senate and the Chief Clerk of the Assembly shall immediately notify the other house of the action taken.

(c) When a bill affecting the boundaries of legislative, congressional, or State Board of Equalization districts has been referred to a committee on conference, the chairman or chairwoman of the committee on conference shall immediately request the Senate Committee on Elections and Reapportionment and the Assembly Committee on Elections, Reapportionment, and Constitutional Amendments to hold a public hearing on the bill. The committee on conference shall also hold a public hearing on the bill. The hearings of the policy committees and the committee on conference may be noticed and held concurrently.

(d) If either or both of the policy committees hold a public hearing on a bill pursuant to the request of the chairman or chairwoman of the committee on conference, the policy committees may consider amendments to the bill, and may make recommendations on amendments to the committee on conference. A policy committee recommendation for an amendment may be adopted only by a roll call vote of the members of the policy committee.

(e) All proposed reports of a committee on conference, all proposed amendments to a proposed report of a committee on conference, and all proposed amendments presented to a policy committee shall be accompanied by appropriate maps. No committee vote may be taken on any proposed report of a committee on conference, any proposed amendment to a proposed report of a committee on conference, or any proposed amendment presented to a policy committee unless the proposed report or proposed amendment, with accompanying maps, has been available to the

public for at least 24 hours. District boundaries contained in any proposed report or any proposed amendment may not be required to be prepared or approved as to form by Legislative Counsel if the accompanying maps adequately reflect the district boundaries.

(f) All hearings of the policy committees and the committee on conference shall be open and readily accessible to the public, and shall be noticed in the Daily File for not less than two calendar days.

(g) The provisions of subdivision (e) prohibiting a committee vote on any proposed report of a committee on conference, any proposed amendment to a proposed report of a committee on conference, or any proposed amendment presented to a policy committee unless the amendment, accompanied by appropriate maps, has been available to the public for at least 24 hours shall not apply in any of the following situations:

(1) The amendment proposed to a policy committee or the committee on conference does not change any district boundaries.

(2) The amendment proposed to a policy committee or the committee on conference is required to correct a technical error in the bill, and the proposed amendment would shift no more than one percent of the population of any district to any other district or districts.

(3) The amendment is a policy committee or committee on conference amendment that is proposed in response to amendments that have been proposed to the committee.

(h) Except as provided in subdivision (i), no vote may be taken in either house on any bill or any report of the committee on conference on that bill unless the bill or the report has been in print in Legislative Counsel form and available to the public, accompanied by appropriate maps, for at least 24 hours.

(i) If either house refuses to adopt the report of the committee on conference, the bill may be returned to the committee on conference for further consideration. If the bill is returned to the committee on conference for an amendment described in paragraph (1) or (2) of subdivision (g), the notice requirements of subdivisions (e) and (h) shall not apply.

(j) Notwithstanding any other rule, this rule may be suspended upon a majority vote of the membership of each house.

## Uniform Rules

63. No standing committee of either house may adopt or apply any rule or procedure governing the voting upon bills which is not equally applicable to the bills of both houses.

### Votes on Bills

64. Every meeting of each house and standing committee or subcommittee thereof where a vote is to be taken on a bill, or amendments to a bill, shall be public.

### Conflicting Rules

65. The provisions of Rule 50 and following of these rules prevail over any conflicting joint rule with a lesser number.

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## RESOLUTION CHAPTER 42

Assembly Concurrent Resolution No. 52—Relative to California Bike Commute Week.

[Filed with Secretary of State May 19, 1997.]

WHEREAS, Bicycle commuting is an effective means to conserve energy and reduce pollution; and

WHEREAS, Bicycle commuting promotes the “livability” of communities by reducing traffic noise and congestion; and

WHEREAS, Many businesses have made efforts to help customers and employees commute by bicycle, including the installation of bicycle parking and other commute facilities; and

WHEREAS, Bicycle transportation is an integral part of the “multimodal” transportation systems planned by federal, state, regional, and local transportation agencies; and

WHEREAS, Local bicycle commuting promotions, often known as “bike-to-work” days, successfully encourage bicycle commuting; and

WHEREAS, The California Bicycle Coalition and the American Lung Association of California have worked cooperatively with many state and local groups and individuals to designate a single day to promote bicycle commuting; and

WHEREAS, The month of May is Clean Air Month as a part of the American Lung Association of California’s efforts to promote air quality; and

WHEREAS, The month of May is National Bike Month, promoting the bicycle as a means of transportation and recreation; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the week of May 19 to May 23, 1997, is proclaimed California Bike Commute Week throughout the state; and be it further

*Resolved,* That all state agencies are encouraged to participate in California Bike Commute Week through the use of existing transportation coordinators and programs; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the Governor, air pollution control districts and air quality management districts, councils of government, the California State Association of Counties, and the League of California Cities.

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## RESOLUTION CHAPTER 43

Senate Concurrent Resolution No. 28—Relative to the establishment of the Joint Committee on Workers' Compensation.

[Filed with Secretary of State May 21, 1997.]

WHEREAS, Workers' compensation costs and workers' compensation fraud were among the factors most frequently cited by business as contributing to a poor business climate in this state in 1993; and

WHEREAS, In 1993, the Legislature enacted and the Governor signed a comprehensive workers' compensation reform package that resulted in reduced costs to California employers and increased benefits to injured workers; and

WHEREAS, Between 40 and 50 percent of all workers' compensation costs are paid for medical services; and

WHEREAS, Medical costs have not declined proportionately to the other costs in the workers' compensation system; and

WHEREAS, It is necessary to concentrate legislative resources within one committee in order to study efficiently the effects of the reforms and to recommend further statutory changes, as necessary; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the Joint Committee on Workers' Compensation is hereby established and authorized to do all of the following:

(1) Monitor and evaluate the implementation of the 1993 reforms to the workers' compensation system.

(2) Conduct oversight hearings and investigations as necessary to inform the Legislature about specific implementation activities.

(3) Recommend legislation to further improve the workers' compensation system; and be it further

*Resolved,* That the Senate Committee on Rules may make money available from the Senate operating fund as necessary for the expenses of the committee and its members; and be it further

*Resolved,* That any expenditure of funds shall be made in compliance with the policies set forth by the Senate Committee on

Rules and shall be subject to the approval of that committee; and be it further

*Resolved,* That the Joint Committee on Workers' Compensation shall report to the Legislature at the end of each legislative session on its findings and recommendations; and be it further

*Resolved,* That the Joint Committee on Workers' Compensation shall be composed of six members from the Senate appointed by the Senate Committee on Rules, of which at least two members shall be from the majority party and at least two members shall be from the minority party, and six members from the Assembly appointed by the Speaker of the Assembly, of which at least two members shall be from the majority party and at least two members shall be from the minority party. One cochairperson of the committee shall be appointed by the Senate Committee on Rules. One cochairperson shall be appointed by the Speaker of the Assembly; and be it further

*Resolved,* That the Joint Committee on Workers' Compensation shall have and exercise all of the rights, duties, and powers conferred upon investigating committees and their members by the provisions of the Joint Rules of the Senate and Assembly, as they are adopted and amended from time to time; and be it further

*Resolved,* That the Joint Committee on Workers' Compensation shall, within 15 days of its initial authorization, and thereafter consistent with the normal annual appropriation process, present its budget to the Senate Committee on Rules for its review, comment, and approval; and be it further

*Resolved,* That the Joint Committee on Workers' Compensation, subject to the approval of both the Senate Committee on Rules and the Assembly Committee on Rules, may contract with other agencies, public or private, as necessary to obtain services or studies that will assist the committee in carrying out its responsibilities; and be it further

*Resolved,* That the Joint Committee on Workers' Compensation is authorized to act until June 30, 1998, at which time the committee's existence will terminate.

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## RESOLUTION CHAPTER 44

Assembly Joint Resolution No. 12—Relative to Bolinas Lagoon.

[Filed with Secretary of State May 27, 1997.]

WHEREAS, The Bolinas Lagoon, located in Northern California, is one of nature's most magnificent, fragile wonderlands and includes a tidal embayment; and

WHEREAS, Bolinas Lagoon provides a unique coastal environment for fish, water birds, and marine mammals that is

unparalleled along the Northern California Coast, and is one of the finest examples of marine wildlife areas on the earth; and

WHEREAS, Bolinas Lagoon is a state and national treasure that has existed for more than 8,000 years; and

WHEREAS, Bolinas Lagoon is unique in that it adjoins or is part of the Point Reyes National Seashore, the Gulf of the Farallones National Marine Sanctuary, Audubon Canyon Ranch, Tamalpais State Park, and the Golden Gate National Recreation Area and is located in an area where there are several essentially intact ecosystems that include both land and water, side-by-side within already protected areas; and

WHEREAS, Few other places can offer such a unique opportunity for so many species and habitat types to live and coexist in a natural lagoon; and

WHEREAS, The 1,000 acre Bolinas Lagoon preserve of the Audubon Canyon Ranch, which maintains a nesting colony of great and snowy egrets and great blue herons, fronts the Bolinas Lagoon and is dependent on the viability of the lagoon; and

WHEREAS, More than 20,000 visitors a year observe the egrets and herons feed their young and observe the young birds taking their first flights from the canyon side high above the lagoon; and

WHEREAS, The Bolinas Lagoon is also home to brown pelicans, harbor seals and their pups, and is a nationally important wintering area for water birds of the Pacific Flyway; and

WHEREAS, Stinson Beach abuts the lagoon to the delight and educational benefit of nearly 1,000,000 visitors a year; and

WHEREAS, The economic value of the lagoon as a continuing, viable ecological system is estimated to be in the hundreds of millions of dollars; and

WHEREAS, The Bolinas Lagoon is home to the magnificent Audubon Canyon Ranch that has been designated by the United States Department of the Interior as a National Natural Landmark; and

WHEREAS, The California Legislature is proud to recognize Bolinas Lagoon as a state and national treasure of extraordinary and irreplaceable beauty, economic value, and environmental diversity; now, therefore, be it

*Resolved by the Assembly and Senate of the State of California, jointly,* That the Legislature of the State of California urges the President and Congress of the United States to appropriate federal funds to be used to preserve and protect the Bolinas Lagoon; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and the Vice President of the United States, to the Speaker of the House of Representatives, and to each

Senator and Representative from California in the Congress of the United States.

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## RESOLUTION CHAPTER 45

Assembly Concurrent Resolution No. 42—Relative to Motorcycle Awareness Month.

[Filed with Secretary of State May 27, 1997.]

WHEREAS, There are in excess of 1,000,000 motorcycle riders and passengers in this state; and

WHEREAS, It is important that all vehicle drivers be aware of one another and learn to share the road; and

WHEREAS, Motorcycle riders are both male and female and represent a diverse group of individuals representing various occupations, including, but not limited to, lawyers, doctors, teachers, engineers, architects, law enforcement officers, military personnel, laborers, business owners and operators, veterans, employees of cities, counties, state, and federal governments, and elected officials; and

WHEREAS, Motorcycle riders contribute substantially to the California economy; and

WHEREAS, It is important to recognize the need for keen awareness on the part of drivers of all types of vehicles that motorcycle riders are sharing the road with them; and

WHEREAS, Motorcycle riders belong to a varied number of organizations, including, but not limited to, the Confederation of Motorcycle Clubs, the Modified Motorcycle Association (MMA), the American Motorcyclist Association (AMA), the California Motorcyclist Association (CMA), the Harley Owners Group (HOG), the GoldWing Touring Association (GWTA), the GoldWing Road Riders Association (GWRRA), and the American Brotherhood Aimed Toward Education (ABATE) Motorcycle Rights Organization, and these groups support designating the month of May 1997, as “Motorcycle Awareness Month”; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Legislature does hereby support all of the above organizations by proclaiming the month of May 1997, as “Motorcycle Awareness Month” in California; and be it further

*Resolved,* That the Legislature calls upon all vehicle drivers to examine their personal driving styles, and to become more aware of motorcycle riders in California and across the United States; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the author for distribution.

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## RESOLUTION CHAPTER 46

Assembly Concurrent Resolution No. 44—Relative to Mosquito and Vector Control Awareness Week.

[Filed with Secretary of State May 28, 1997.]

WHEREAS, Mosquitoes and other vectors continue to be a source of public nuisance, human suffering, illness, and death, in California and around the world; and

WHEREAS, Excess numbers of mosquitoes and other vectors reduce enjoyment of outdoor living spaces, both public and private, reduce property values, hinder outdoor work, reduce livestock productivity, and spread diseases of humans, livestock, and wildlife; and

WHEREAS, Mosquitoes and other vectors can disperse or be transported long distances from their sources and are, therefore, a public nuisance and a health risk; and

WHEREAS, California has experienced eight years of drought or drought-like conditions over the last decade which has severely restricted the available amount of water for domestic, agricultural, industrial, and residential use; and

WHEREAS, With a return to normal and above normal levels of precipitation, water runoff, and flooding since 1993, there has been a resurgence of mosquito-borne encephalitis in California; and

WHEREAS, Mosquito-borne viruses that can cause human illness or even death have been routinely found in mosquitoes in over one half of the counties in California during the last four years; and

WHEREAS, Established mosquito and vector borne diseases such as plague, lyme disease, and encephalitis and new and emerging vector-borne diseases such as hantavirus, babesiosis, and ehrlichiosis cause illness and sometimes death every year in California; and

WHEREAS, Adequate funding for mosquito and vector control and for surveillance of vector-borne disease organisms is not being provided in many counties; and

WHEREAS, Public awareness can result in reduced production of mosquitoes and other vectors by responsible parties, avoidance of the bites of mosquitoes when the risk of disease transmission is high, detection of human cases of mosquito-borne encephalitis that may be otherwise be diagnosed as aseptic meningitis for lack of appropriate laboratory testing, formation of mosquito or vector control agencies where needed; and

WHEREAS, Provision of adequate funding for existing agencies by citizen approved action; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Legislature hereby declares that the week of June 22 through 28, 1997, shall be designated as Mosquito and Vector Control Awareness Week; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit a copy of this resolution to the State Director of Health Services.

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## RESOLUTION CHAPTER 47

Senate Concurrent Resolution No. 45—Relative to Emergency Medical Services Week.

[Filed with Secretary of State May 28, 1997.]

WHEREAS, An Emergency Medical Services (EMS) system provides integrated and coordinated optimal care for ill and injured people, from emergency medical care to definitive care; and

WHEREAS, Emergency medical services are a vital public service, providing care to more than 1.8 million California citizens and visitors each year; and

WHEREAS, Access to quality emergency medical care dramatically improves the survival and recovery rate of those who experience sudden illness or injury; and

WHEREAS, Public fire suppression agencies, private ambulance companies, and emergency room staffs are ready to provide lifesaving care to those in need 24 hours a day, seven days a week; and

WHEREAS, An EMS team is composed of law enforcement, dispatch, fire and rescue, ambulance, hospital, and medical personnel, many of whom are unpaid volunteers who devote their time, energy, and expertise to save lives; and

WHEREAS, The members of EMS teams work together to improve their skills and ability to handle all emergency situations effectively; and

WHEREAS, These EMS teams engage in hundreds of hours of specialized training and continuing education to enhance their lifesaving skills; and

WHEREAS, Emergency Medical Services Week will once again be observed this year from May 18 to 24, 1997, and programs will be held throughout the state to encourage all Californians to increase their awareness of ways to prevent accidents and other emergency incidents and how to use their EMS system when necessary; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the week of May 18 through 24, 1997, shall

be proclaimed "Emergency Medical Services Week" in California; and be it further

*Resolved,* That the Secretary of the Senate transmit a copy of this resolution to the author for appropriate distribution.

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## RESOLUTION CHAPTER 48

Senate Concurrent Resolution No. 10—Relative to school conduct and safety.

[Filed with Secretary of State May 28, 1997.]

WHEREAS, The primary concern of the California public, parents and guardians of pupils, pupils, and school employees with respect to public school is that our public schools be safe and orderly, have high academic standards, and generate each pupil's capacity for each pupil's lifelong learning, and that our public schools provide an environment that promotes respect for oneself and for others; and

WHEREAS, Parents and guardians of pupils, pupils, and school employees have concerns that the misbehavior of some pupils interferes with the ability of public schools to provide a quality education to those pupils who want to learn; and

WHEREAS, Most parents and guardians of pupils, pupils, and school employees believe that discipline and order in school are prerequisites to learning; and

WHEREAS, The majority of pupils who want to learn and who are willing to study and work hard should not be denied a quality education by the small number of pupils who are violent or disruptive, or both, at school; and

WHEREAS, There is strong support from the public, parents and guardians of pupils, businesses, and teachers for higher standards in the basic subjects taught in public school; and

WHEREAS, There is widespread concern among members of the public, parents and guardians of pupils, businesses and teachers that the United States needs to reach higher standards of academic achievement to be competitive in the world economy; and

WHEREAS, The traditional mission of California's public schools has been to prepare our youth for equal and responsible citizenship and productive adulthood; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the mission of the California public schools is hereby reaffirmed by recognizing that democratic citizenship and productive adulthood begin with high standards of conduct and safety in public schools as well as high standards for academic achievement in our public schools and that other education reforms cannot work without these basic ingredients; and be it further

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the following Bill of Rights and Responsibilities in California Public Schools recognizes the following rights and responsibilities of all public school pupils and public school employees:

(1) The right to be treated with courtesy and respect.

(2) The right to schools that are safe, orderly, drug free, and weapon free;

(3) The right to learn and work in school districts and schools that have clear discipline codes with fair and consistently enforced consequences for misbehavior;

(4) The right to learn and work in school districts that have alternative educational placements for violent or chronically disruptive pupils;

(5) The right to learn and work in school districts, schools, and classrooms that have clearly stated and rigorous academic standards;

(6) The right to learn and work in neighborhood schools that are not crowded, that are well equipped, and that have the instructional materials and technology necessary to carry out a rigorous academic program;

(7) The right to learn and work in schools that have teachers who know the subject matter they are responsible for teaching, know how to teach that subject matter, and have the capacity to inspire their pupils to learn;

(8) The right to classrooms in which high grades stand for high academic achievement and to schools in which pupils are promoted from one grade to another on the basis of academic achievement;

(9) The right to learn and work in school districts and schools in which receiving a high school diploma means that the recipient has the knowledge and skills necessary for entry to college or to obtain a decent job;

(10) The right to be supported by parents and guardians of pupils, the community, public officials, and business leaders in their efforts to uphold high standards of conduct and achievement;

(11) The responsibility to conduct his or her life and work so as to respect the rights listed in paragraphs (1) to (10), inclusive; and be it further

*Resolved,* That the Secretary of the Senate transmit a copy of this resolution to the Governor of the State of California, the Superintendent of Public Instruction, and the Secretary of Child Care and Development.

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## RESOLUTION CHAPTER 49

Assembly Concurrent Resolution No. 31—Relative to Grandchildren's Week.

[Filed with Secretary of State May 30, 1997.]

WHEREAS, There are millions of grandchildren in the State of California; and

WHEREAS, Grandchildren and grandparents share a special bond that allows each to accept the other without question or change and creates a loving openness not always found in adult relationships; and

WHEREAS, Grandchildren help us to understand the miracle of the family and to feel some just compensation for growing old; and

WHEREAS, Grandparents are free to love and befriend and guide without the fear of failure or blindness of pride, they are teachers and role models that bring the generations together; and

WHEREAS, More and more grandparents are being asked to assume the familiar and demanding role of parent, and are being pushed to raise a new generation of children without the benefit and security of employment and child care; and

WHEREAS, Grandparents, despite the incredible financial burden that raising children imposes on a limited or fixed income, are willingly raising their children's children with loving devotion; and

WHEREAS, It is the responsibility of the governing bodies charged with protecting individual rights and liberties to guarantee freedom and safety even among the children of broken homes whose grandparents are making extraordinary sacrifices to raise them; now therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Legislature of the State of California hereby proclaims the week of June 22, 1997, to June 28, 1997, inclusive, as Grandchildren's Week in California and all Californians are urged to honor our state's grandchildren by participating in activities held throughout the week to commemorate this observance.

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## RESOLUTION CHAPTER 50

Assembly Concurrent Resolution No. 56—Relative to Asian and Pacific Islander American Heritage Month.

[Filed with Secretary of State May 30, 1997.]

WHEREAS, Asian and Pacific Islander Americans have played a critical role in the social, economic, and political development of California throughout its history; and

WHEREAS, Asian and Pacific Islander Americans are one of the fastest growing ethnic populations in California; and

WHEREAS, Asian and Pacific Islander Americans represent over 9 percent of California's population, and represent ancestries that include: Burmese, Cambodian, Chinese, East Indian, Filipino,

Guamanian, Hawaiian, Hmong, Indonesian, Iu-Mien, Japanese, Korean, Laotian, Singaporean, Thai, Tongan, and Vietnamese; and

WHEREAS, Asian and Pacific Islander American entrepreneurs have led many of California's businesses to the pinnacle of their respective industries; and

WHEREAS, Asian and Pacific Islander Americans communities throughout California actively promote their cultural heritage and promote cross-cultural understanding; and

WHEREAS, Asian and Pacific Islander Americans will continue to be an important part of California's diverse tapestry of cultures and ideas; and

WHEREAS, Asian and Pacific Islander American immigrants contributed greatly to California's economic success, rural growth, and urban development; and

WHEREAS, Asian and Pacific Islander American refugees have revitalized many of California's communities, while bringing in new ideas and economic opportunities; and

WHEREAS, Asian and Pacific Islander American immigrants and refugees had to overcome tremendous odds and cultural barriers to establish a better life for their families; and

WHEREAS, Asian and Pacific Islander Americans have a proud legacy of service and dedication to the State of California and to the United States of America; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Legislature commends Asian and Pacific Islander Americans for their notable accomplishments and outstanding service to the State of California; and be it further

*Resolved,* That the Legislature hereby declares the month of May 1997 Asian and Pacific Islander American Heritage Month; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

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## RESOLUTION CHAPTER 51

Senate Concurrent Resolution No. 41—Relative to Mentoring Awareness Month.

[Filed with Secretary of State May 30, 1997.]

WHEREAS, Mentoring is a valuable component in the lives of our youth today; and

WHEREAS, Our Governor has committed to providing 250,000 mentors by the year 2000; and

WHEREAS, It is important that our communities in California take a special interest in providing positive mentors in the lives of at-risk youth; and

WHEREAS, Recent studies have proven that one-on-one mentoring is a successful tool in turning around the lives of youth and families in crisis; and

WHEREAS, The government, law enforcement, businesses, schools, community agencies, parents and guardians, youth, senior citizens, and service organizations will demonstrate their commitment to mentoring awareness by wearing the "Green Ribbon Pin" during the month of May 1997 and will continue to wear that pin until the State of California reaches its goal of 250,000 mentors; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That May 1997 is proclaimed as "Mentoring Awareness Month" in the State of California; and be it further

*Resolved,* That successful community efforts, such as the New Connections MATCH (Mentoring Alliance Through Community Help) and the GRIP (Gang Risk Intervention Program) programs in Contra Costa County, which provide critical support to at-risk youth and their families, be commended during that month.

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## RESOLUTION CHAPTER 52

Senate Concurrent Resolution No. 19—Relative to New South Wales, Australia.

[Filed with Secretary of State May 30, 1997.]

WHEREAS, Australia is one of the most important trading partners of California and the United States, and one of the few in the world with which we enjoy a positive balance of trade; and

WHEREAS, New South Wales and California are the commercial, industrial, and financial centers of their respective countries, as well as leading centers for the production of wine, films, gold, and sports and leisure activities; and

WHEREAS, New South Wales and California are the most populous states in their respective countries, and share a common language, similar early history dominated by mining and agriculture, diverse and multicultural populations, and a Pacific Rim orientation; and

WHEREAS, California's educational community has begun to recognize the significance of Australia, through the development of university coursework and curricula dedicated to the study of Australia at the University of California, the University of Southern

California, and the Graduate School of International Relations and Pacific Studies at the University of California at San Diego; and

WHEREAS, Although New South Wales and California share a great deal in common, they are sufficiently different that both would benefit from increased trade, investment, tourism, cultural, educational, and scientific exchanges; and

WHEREAS, The California Legislature is committed to encouraging relationships and exchanges between California and other regions of the world in order to promote better economic ties, understanding, and peaceful relations; and

WHEREAS, Establishing and developing a sister state relationship between New South Wales and California would help achieve these goals, and would stimulate and facilitate additional mutually beneficial exchanges; and

WHEREAS, The State of New South Wales has already passed the legislation necessary to enter into a sister state relationship with California; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the Legislature, on behalf of the people of the State of California hereby extends an invitation to the people of the State of New South Wales, Australia, to join California as a sister state, and commit to the development of programs to foster social, economic, educational, scientific, and cultural exchanges in order to strengthen economic ties, and improve international understanding and good will between the two states; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the Honorable Max Frederick Willis, President of the Legislative Council of New South Wales, the Honorable John Henry Murray, Speaker of the Legislative Assembly of New South Wales, and the Honorable Pete Wilson, Governor of California.

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## RESOLUTION CHAPTER 53

### Assembly Joint Resolution No. 24—Relative to Black Music Month.

[Filed with Secretary of State June 4, 1997.]

WHEREAS, Artists, songwriters, producers, engineers, educators, executives, and other professionals in the music industry provide inspiration and leadership through the creation of music, dissemination of educational information, and financial contributions to charitable and community-based organizations; and

WHEREAS, African-American genres of music such as gospel, blues, jazz, rhythm and blues, rap, and hip-hop are indigenous to the United States, and have their roots in the African-American experience; and

WHEREAS, Black music, including African-American music, has a pervasive influence on dance, fashion, language, art, literature, cinema, media, advertising, and other aspects of our culture; and

WHEREAS, The prominence of African-American and other black music in the 20th century has renewed interest in the legacy and heritage of this art form; and

WHEREAS, Black music embodies the strong presence of, and significant contributions made by, African-Americans in the music industry and society as a whole; and

WHEREAS, Black music has generated a multibillion dollar industry that contributes greatly to the domestic and worldwide economy; and

WHEREAS, In 1979, a meeting between then-President Jimmy Carter, Kenneth Gamble, the president of Philadelphia International Records and cofounder of the Black Music Association, and a delegation of 77 black music professionals, resulted in President Carter's designation of June as Black Music Month; and

WHEREAS, Black music has a broad appeal to diverse groups, both nationally and internationally; now, therefore, be it

*Resolved by the Assembly and Senate of the State of California, jointly,* That the Legislature recognizes the significance of African-American and other black music to global culture, and the positive impact of this art form on global commerce; and be it further

*Resolved,* That the Legislature hereby designates the month of June as Black Music Month throughout the State of California, and calls upon the people of the state to study, reflect on, and celebrate the majesty, vitality, and importance of African-American and other black music; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

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## RESOLUTION CHAPTER 54

Assembly Concurrent Resolution No. 55—Relative to Sober Graduation.

[Filed with Secretary of State June 9, 1997.]

WHEREAS, May and June are the traditional months to celebrate the completion of high school and the commencement of adult life for graduating seniors statewide; and

WHEREAS, High school graduation is a milestone marked by proms, parties, and other celebrations; and

WHEREAS, Unfortunately, these celebrations have all too often been occasions for the illegal consumption of alcohol by underage high school pupils, too many of whom drive a motor vehicle on public roadways; and

WHEREAS, This behavior has frequently ended in the tragic death or injury of those involved, as well as of innocent motorists, passengers, and pedestrians; and

WHEREAS, In 1985, the Department of the California Highway Patrol initiated an innovative new program called Sober Graduation as a way of providing teenagers with a safe way to celebrate graduation; and

WHEREAS, Since its inception, Sober Graduation parties and activities have saved the lives of hundreds of California motorists and passengers by giving young, end-of-the-school-year celebrants an alcohol-free alternative for celebrating; and

WHEREAS, Sober Graduation has proven to be a safe and effective way of celebrating graduation and marking the end of the school year; and

WHEREAS, Community and parent-sponsored Grad Nite programs throughout the state support and complement the philosophy and values that are the heart and soul of all Sober Graduation endeavors; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Legislature encourages all parents, school teachers and administrators, law enforcement agencies, and community leaders to continue their efforts to provide Sober Graduation activities for the maximum number of high school graduates, their friends, and school associates.

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## RESOLUTION CHAPTER 55

Senate Concurrent Resolution No. 31—Relative to San Diego State University.

[Filed with Secretary of State June 13, 1997.]

WHEREAS, San Diego State University was founded 100 years ago, on March 13, 1897, when Governor James Budd signed legislation that established the San Diego Normal School for the purpose of training teachers to educate the growing population of the San Diego region; and

WHEREAS, The San Diego Normal School helped establish the City of San Diego as a center of learning in the state, having begun its mission in rented classrooms in downtown San Diego with a student body comprised mostly of women interested in careers as teachers; and

WHEREAS, The school has evolved throughout its history into a full four-year university noted for its academic excellence and commitment to providing a sound education for the communities of San Diego; and

WHEREAS, Following World War II, returning student veterans, who benefited from the GI Bill, brought their young families to the campus, and contributed their maturity and experience to the growing student body; and

WHEREAS, President John F. Kennedy delivered the commencement address in 1963, thereby confirming San Diego State University's increasing importance and prestige; and

WHEREAS, San Diego State University has since grown to become the undisputed leader of the California State University system with 28,000 students, and offering bachelors degrees in 76 subject areas, masters degrees in 54 subject areas, in addition to doctoral degrees in 10 subject areas; and

WHEREAS, The university continues to build its reputation for excellence and innovation as it develops and employs new technologies and academic disciplines, with a broad sense of responsibility for its students, its faculty, and the community it serves; and

WHEREAS, San Diego State University has a tradition of making important educational opportunities available to the region's diverse student population; and

WHEREAS, San Diego State University has steadfastly adapted to the needs of the community while embracing and championing constructive change; and

WHEREAS, San Diego State University has a great impact on California's economy by annually graduating 5,000 students to the work force, employing 3,898 persons, and having a total regional economic impact of over $770,000,000; and

WHEREAS, The greater San Diego community will join together on March 15, 1997, to celebrate SDSU's Founders' Day, which will kick off a year-long celebration of the university's 100 years of outstanding accomplishments; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That San Diego State University be commended during this historic celebration of a century of learning and a commitment to the future; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to Dr. Stephen Weber, Ph.D., President of San Diego State University.

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# RESOLUTION CHAPTER 56

Senate Concurrent Resolution No. 36—Relative to the 85th anniversary of the Girl Scouts.

[Filed with Secretary of State June 13, 1997.]

WHEREAS, The year 1997 marks the 85th anniversary of the Girl Scouts of the United States of America; and

WHEREAS, It is appropriate upon this anniversary to bring special public attention to this organization for its invaluable contributions to girls throughout the state of California and the nation; and

WHEREAS, Under the theme "Be your Best," the anniversary celebration will provide a framework to highlight the achievements that Girl Scouts have made since 1912, and to explore the possibilities that await members in the future; and

WHEREAS, Founded in 1912 by Juliette Low, who believed that "Girl Guides and Girl Scouts could contribute to international understanding and world peace," Girl Scouts of the United States of America has established and maintained a commitment to meeting the changing needs of girls; and

WHEREAS, Girl Scout programs provide a spirit of adventure that challenges members to learn new skills, try new activities, and explore other cultures, while providing service and good citizenship to their communities and neighborhoods; and

WHEREAS, Girl Scouts of the United States of America is the largest organization in the world serving the needs of girls, and has over 2.5 million girl members and over 806,000 adult volunteers, and, in the State of California, more than 222,000 girl members and over 82,000 adult volunteers active in the organization; and

WHEREAS, In celebration of the 85th anniversary of the Girl Scouts of the United States of America, the Girl Scout Councils of California will hold a special celebration on June 26, 1997, on the west steps of the State Capitol in honor of women legislators and other women leaders; and

WHEREAS, Of the 27 women currently serving in the California Legislature, 17 were members of, or leaders in, the Girl Scouts of the United States of America, including Senators Dede Alpert, Betty Karnette, Barbara Lee, Diane Watson, and Cathy Wright, as well as Assembly Members Barbara Alby, Elaine Alquist, Debra Bowen, Valerie Brown, Susan Davis, Denise Moreno Ducheny, Martha Escutia, Lynne Leach, Diane Martinez, Virginia Strom-Martin, Kerry Mazzoni, and Helen Thomson; and

WHEREAS, The 85th anniversary of the Girl Scouts of the United States of America will draw special public attention to the distinguished history of the organization, and to the benefits the people of California have enjoyed as a result of the proud tradition of this organization; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the Legislature takes pleasure in recognizing the Girl Scouts of the United States of America on the celebration of its 85th anniversary, and acknowledging with great pride the role the organization has played in shaping the character and quality of life of its members, both in California and the United States; and be it further

*Resolved,* That the Legislature encourages the people of California to participate in activities and celebrations appropriate to this occasion.

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## RESOLUTION CHAPTER 57

Senate Joint Resolution No. 1—Relative to parachute equipment.

[Filed with Secretary of State June 18, 1997.]

WHEREAS, Existing federal regulations require auxiliary parachutes composed exclusively of nylon, rayon, or other similar synthetic fiber or material to have been packed by a certificated parachute rigger within 120 days before the date of use; and

WHEREAS, Extending the period for packing auxiliary parachutes from 120 days to 180 days would maintain safety without posing undue cost burdens on the consumer and would make it more convenient for the consumer by decreasing the number of times that a parachute is not available for skydiving activities; now, therefore, be it

*Resolved by the Senate and Assembly of the State of California, jointly,* That California urges the Congress of the United States, the Federal Aviation Administration, and the United States Parachute Association to work together to extend the period for packing auxiliary parachutes composed of nylon, rayon, or other similar synthetic materials from 120 days to 180 days; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the Speaker of the House of Representative, to each Senator and Representative from California in the Congress of the United States, to the Administrator of the Federal Aviation Administration, and to the President of the United States Parachute Association.

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## RESOLUTION CHAPTER 58

Assembly Concurrent Resolution No. 5—Relative to the official State Fife and Drum Corps.

[Filed with Secretary of State June 20, 1997.]

WHEREAS, The music of the fife and drum roused and inspired soldiers during significant events in this country's history, including the American Revolution and the Civil War; and

WHEREAS, The California Consolidated Drum Band has continued the great American tradition of the fife and drum band, since its organization in the summer of 1996, using rope-tensioned drums, rudimental drumming, and fifes; and

WHEREAS, The California Consolidated Drum Band draws its membership from the Fife and Drum Corps of the Re-enactors of the American Civil War, the Field Music of the National Civil War Association, and the former Fort Sutter Fife and Drum Corps, and includes members from throughout northern California, ranging in age from 9 to over 60 years; and

WHEREAS, On November 16, 1996, the California Consolidated Drum Band became the first California corps to be approved for membership in the Company of Fifers and Drummers at that organization's quarterly meeting at the company museum and headquarters in Ivoryton, Connecticut, in recognition of its excellence and authenticity in performance on traditional wooden fifes and rope-tensioned drums; and

WHEREAS, The California Consolidated Drum Band has performed for enthusiastic audiences in Chico, Fresno, Nevada City, Sacramento, and San Francisco, and is planning to expand its performance schedule in 1997; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the California Consolidated Drum Band is hereby designated the official Fife and Drum Corps of California; and be it further.

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

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## RESOLUTION CHAPTER 59

Senate Joint Resolution No. 20—Relative to Indian gaming.

[Filed with Secretary of State June 20, 1997.]

WHEREAS, One of the most shameful chapters in our nation's history was a hostile policy of the United States government against Native American Indian tribes, and a product of these historic wrongs is that Indian tribal lands in California are primarily small, located in remote areas of the state, and lack the most basic resources that would foster employment and opportunity, and as a result, California Indian tribes were forced into an existence of poverty and despair

symbolized by high unemployment, illiteracy, and substandard health care; and

WHEREAS, The United States Supreme Court in 1987 reaffirmed the right of sovereign Indian nations to operate high-stakes gaming activities; and

WHEREAS, Congress passed, and the President of the United States signed into law, the federal Indian Gaming Regulatory Act (25 U.S.C. Sec. 2701 et seq.) that has as a principal goal the promotion of tribal economic development, tribal self-sufficiency, and strong tribal government; and

WHEREAS, Revenues from gaming are replacing welfare with employment, illiteracy with education, substance abuse with treatment, poverty with prosperity, and despair with hope, and have created over 15,000 jobs in gaming enterprises and over 25,000 jobs in related industries providing services to gaming operations; and

WHEREAS, The federal Indian Gaming Regulatory Act provides a statutory basis for the conduct and oversight of gaming on Indian lands, and that statute requires tribal-state compacts for conducting certain forms of gaming; and

WHEREAS, The impact of Indian gaming on state public policy is presently the subject of federal and state scholarly research studies; and

WHEREAS, The Governor and the Attorney General of the State of California are currently negotiating a tribal-state compact with the government of the Pala Band of Mission Indians that may serve as the framework for the negotiations of other sovereign tribal governments; now, therefore, be it

*Resolved by the Senate and Assembly of the State of California, jointly,* That as sovereign governments California Indian tribes have a fundamental right to conduct gaming operations on their sovereign reservation lands and to foster future economic development, and gaming that results in revenues used to improve housing, education, and health care for California Indian tribes has the support of the majority of the Members of the Legislature of the State of California; and be it further

*Resolved,* That the President of the United States is requested to issue an executive order permitting the tribes to continue to operate and regulate their respective gaming operations until appropriate legislation is enacted and all other compact remedies have been exhausted; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Secretary of the Interior.

## RESOLUTION CHAPTER 60

Assembly Joint Resolution No. 19—Relative to the Southwest Defense Complex.

[Filed with Secretary of State June 23, 1997.]

WHEREAS, The military and the defense industry provide California with highly skilled professionals working in the leading edge of technology, and generate jobs that complement and support the state's industrial and commercial leadership in aerospace, advanced computing, and telecommunications technology; and

WHEREAS, Since the inception of the Base Realignment and Closure Commission in 1988, 29 military installations have been closed or severely realigned in the State of California, resulting in the loss of half a million direct and indirect defense jobs; and

WHEREAS, There is strong indication that another base realignment and closure is in the offing and without strong vigilance to retain the remaining installations, California could experience additional closures and realignments; and

WHEREAS, During the 1995 Base Realignment and Closure, the Joint Cross Service Groups on Laboratories and Test and Evaluation, both under the sponsorship of the Office of the Secretary of Defense, recommended that military services consider consolidating a major portion of aircraft and air-launched weapons research, development, testing, evaluation, and training installations in the southwest United States; and

WHEREAS, The Southwest Defense Complex has a network of existing military installations that are already electronically linked and cooperatively managed; and

WHEREAS, The Southwest Defense Complex would consist of facilities in California, New Mexico, Nevada, Arizona, and Utah; and

WHEREAS, The Southwest Defense Complex is the only area in the United States where research, development, testing, evaluation, and training using advanced technology can be conducted in a realistic, high fidelity environment with minimal impact upon the general public; and

WHEREAS, This unique southwestern area, with ideal weather for testing and training operations, consists of mostly Department of Defense and government lands that are largely free of commercial airline routes, electromagnetic interference, and high population density; and

WHEREAS, This complex of nearly contiguous facilities has the technical assets—scientific and engineering work force, laboratories, test facilities, ranges, land and airspace—plus the track record of cooperation to allow it to assume the principal Department of Defense role in developing and testing complex air warfare systems; and

WHEREAS, The Southwest Defense Alliance, consisting of a group of local elected officials, representatives from private industry, chambers of commerce, economic development associations, base retention groups, and community leaders, is dedicated to supporting and enhancing the Southwest Defense Complex; and

WHEREAS, The California Legislature unanimously expressed support in 1994 for the Southwest Defense Complex, by enacting a joint resolution; and

WHEREAS, It would be desirable to reaffirm the California Legislature's support for the Southwest Defense Complex, to reduce the chances of additional base closures in California; now, therefor, be it

*Resolved by the Assembly and Senate of the State of California, jointly,* That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to endorse and support the Southwest Defense Complex, and the efforts of the Southwest Defense Alliance in furtherance of the Southwest Defense Complex; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the United States House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

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## RESOLUTION CHAPTER 61

Senate Concurrent Resolution No. 2—Relative to the Earl Sholes and Dan Heryford Memorial Bridges.

[Filed with Secretary of State June 24, 1997.]

WHEREAS, Construction of twin bridges in the Sacramento Canyon on Interstate Highway Route 5 in Shasta County was recently completed; and

WHEREAS, The completion of these bridges affords a unique opportunity for honoring two of Shasta County's law enforcement officers; and

WHEREAS, On May 25, 1950, in the vicinity of the recently completed twin bridges, Shasta County Undersheriff Earl Sholes and Shasta County Deputy Sheriff Dan Heryford were killed by two prisoners that the officers were transporting to Redding on charges that the prisoners had stolen a motor vehicle; and

WHEREAS, It is appropriate, therefore, that the newly completed twin bridges located in the Sacramento Canyon on Interstate Highway Route 5 in Shasta County be dedicated to the memory of Earl Sholes and Dan Heryford; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the highway bridge designated the Sacramento River Bridge O.H., Bridge 6-192L, 5 SHA 51 97, is hereby officially designated the Earl Sholes Memorial Bridge, and that the new highway bridge designated Sacramento River Bridge O.H., Bridge 6-193L, 5 SHA 52 24, is hereby officially designated the Dan Heryford Memorial Bridge; and be it further

*Resolved,* That the Department of Transportation is requested to determine the cost of appropriate plaques and markers, consistent with the signing requirements for the state highway system, showing those special designations and, upon receiving donations from nonstate sources covering that cost, to erect those plaques and markers; and be it further

*Resolved,* That the Secretary of the Senate transmit a copy of this resolution to the Director of Transportation.

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## RESOLUTION CHAPTER 62

Senate Concurrent Resolution No. 9—Relative to the Avocado Highway.

[Filed with Secretary of State June 24, 1997.]

WHEREAS, Approximately 90 percent of the avocados consumed in the United States are grown between the City of San Luis Obispo and the United States-Mexico border; and nearly 50 percent of the avocados are grown in San Diego County; and

WHEREAS, The average annual California avocado crop is approximately 330 million pounds and is valued at over $230 million at the farm gate level; and

WHEREAS, The California avocado industry contributes approximately $1 billion to the California economy; and

WHEREAS, The California avocado industry employs 21,000 persons, including over 6,000 growers; and

WHEREAS, The section of Interstate Highway Route 15 between the junction of State Highway Route 78 in the City of Escondido and the City of Temecula is the most fertile avocado growing area in the nation; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the section of highway of Interstate Highway Route 15 between the junction of State Highway Route 78 in the City of Escondido and the City of Temecula is hereby officially designated the Avocado Highway; and be it further

*Resolved,* That the Department of Transportation is requested to determine the cost of appropriate plaques and markers, consistent with the signing requirements of the state highway system, showing

those special designations and, upon receiving donations from nonstate sources covering that cost, to erect those plaques and markers; and be it further

*Resolved,* That the Secretary of the Senate transmit a copy of this resolution to the Director of Transportation.

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## RESOLUTION CHAPTER 63

Senate Concurrent Resolution No. 18—Relative to the creation of a Joint Committee on Headwaters Forest and Ecosystem Management Planning.

[Filed with Secretary of State June 30, 1997.]

WHEREAS, The remaining ancient and old-growth forest stands of California represent a unique and scarce natural resource that is valuable for biological, scientific, and aesthetic reasons, as well as for biological production; and

WHEREAS, Ancient and old-growth forests contain some of the largest and oldest living trees in the world and provide a complex ecosystem for a wide range of plants and animals, including threatened and endangered species; and

WHEREAS, It is the policy of this state to preserve and protect residual stands of ancient and old-growth forests that are of significant environmental or recreational importance to make them available for the benefit of present and future generations of Californians; and

WHEREAS, Californians have expressed a high priority for protecting and preserving virgin old-growth and other significant native forests, including coastal redwood forestlands; and

WHEREAS, The Headwaters Forest, consisting of approximately 3,000 acres and surrounding watershed lands located in Humboldt County, is the largest remaining privately owned grove of virgin old-growth coastal redwoods and other species of trees; and

WHEREAS, The federal government and this state entered into an agreement with MAXXAM, Inc. on September 28, 1996, providing a framework for public acquisition of the Headwaters Forest, the Elk Head Spring Grove, and surrounding buffer lands, totaling 7,500 acres, through payment of $380 million in combined cash and traded assets from the federal government and the State of California; and

WHEREAS, The September 28, 1996, agreement also provides for a 10-month moratorium on commercial logging and timber salvage operations within the Headwaters Forest and surrounding buffer lands, and the preparation of a multispecies Habitat Conservation Plan and Sustained Yield Plan for review and approval by the federal government and this state, covering the remaining 190,000 acres of

forestland remaining in the ownership of the Pacific Lumber Company; and

WHEREAS, The Habitat Conservation Plan and Sustained Yield Plan will address the impact of future timber operations on lands surrounding the Headwaters Forest and buffer area, and must be reviewed for their consistency with federal Endangered Species Act requirements applicable to the marbled murrelet and northern spotted owl, similar requirements proposed for coho salmon, and applicable regulations adopted by the State Board of Forestry; and

WHEREAS, The United States Congress and the California Legislature may be required to approve elements of the September 28, 1996, agreement, including, but not limited to, authorizing the transfer of government assets, appropriating funds, and providing for the management and use of the lands to be publicly acquired; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the Joint Committee on Headwaters Forest and Ecosystem Management Planning is hereby established and authorized to do all of the following:

(a) Ensure that the Legislature is properly consulted and involved in the implementation of the September 28, 1996, agreement between the federal government, this state, and MAXXAM Inc., including:

(1) The proposed transfer of cash from this state and assets offered by the Resources Agency, together valued at $130 million, including the fair market value and current use of any state lands or properties to be exchanged.

(2) The impact on local government revenues and employment caused by the transfer of private lands to public ownership, or government lands to private ownership.

(3) Review of the Sustained Yield Plan for its consistency with the Z'berg-Nejedly Forest Practice Act of 1973 and State Board of Forestry rules and regulations in establishing a long-term sustained yield harvest level for the greater than 190,000 acres of privately owned commercial forestland surrounding the Headwaters Forest and the adjacent buffer area to be publicly acquired, and which must be integrated with a Habitat Conservation Plan covering federally listed fish and wildlife species.

(4) Any revision to elements of the agreement that may be determined necessary by mutual agreement of the federal government, this state, and MAXXAM Inc.

(b) Ensure that the public and affected stakeholder interests have adequate opportunities to review and comment upon all aspects of the various elements of the agreement pursuant to the National Environmental Policy Act of 1969 and the California Environmental Quality Act.

(c) Review and make recommendations to the Legislature relative to the proposed management objectives for the 7,500 acres

to be jointly acquired by this state and the federal government, and any provision for public access and use.

(d) Provide a mechanism for the Legislature to review and comment on pending proposals for further listing and recovery, under the state and federal endangered species acts, of fish and wildlife species that depend on habitat contained in the Headwaters Forest and adjacent watersheds, including, but not limited to, anadromous fisheries.

(e) Provide a mechanism for the Legislature to review and address various state and federal proposals to consolidate and streamline existing regulatory programs affecting coastal forest watersheds, and to provide programs and financial incentives to restore and enhance degraded lands and aquatic habitats; and be it further

*Resolved,* That the Joint Committee on Headwaters Forest and Ecosystem Management Planning shall consist of at least five, but not more than seven, members appointed by the Senate Committee on Rules and at least five, but not more than seven, members appointed by the Speaker of the Assembly, and that the Senate Committee on Rules and the Speaker of the Assembly shall each appoint a cochair of the joint committee; and be it further

*Resolved,* That the Joint Committee on Headwaters Forest and Ecosystem Management Planning shall have and exercise all of the rights, duties, and powers conferred upon investigating committees and their members by provisions of the Joint Rules of the Senate and Assembly as they are adopted and amended from time to time, and which are incorporated herein and made applicable to this joint committee and its members; and be it further

*Resolved,* That the Senate Committee on Rules may make money available from the Senate Operating Fund as it determines to be necessary for the expenses of the Joint Committee on Headwaters Forest and Ecosystem Management Planning and its members. Any expenditure of money shall be made in compliance with policies set forth by the Senate Committee on Rules and shall be subject to the approval of the Senate Committee on Rules; and be it further

*Resolved,* That the Joint Committee on Headwaters Forest and Ecosystem Management Planning shall, within 15 days of authorization, and, consistent with the normal annual appropriations process for funding legislative committees, present its initial budget to the Senate Committee on Rules for its review, comment, and approval; and be it further

*Resolved,* That the Joint Committee on Headwaters Forest and Ecosystem Management Planning shall submit a report at the end of each legislative session to the Legislature on its activities; and be it further

*Resolved,* That the Joint Committee on Headwaters Forest and Ecosystem Management Planning is authorized to act until June 30, 1998, at which time the joint committee's existence shall terminate.

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## RESOLUTION CHAPTER 64

Assembly Concurrent Resolution No. 1—Relative to Neighborhood Watch Month.

[Filed with Secretary of State July 2, 1997.]

WHEREAS, California's communities recognize Neighborhood Watch as an effective means for keeping crime out of neighborhoods; and

WHEREAS, Neighbors and law enforcement agencies can work together to create an effective crimefighting team; and

WHEREAS, Approximately one residential burglary occurs every two minutes in the state of California; and

WHEREAS, The United States Attorney General has warned that juvenile crime arrests will more than double by the year 2010; and

WHEREAS, Much remains to be done to ensure the safety of our homes, our neighborhoods, and our communities for ourselves and our children; and

WHEREAS, The battle against crime will not be won by individuals acting alone; and

WHEREAS, Neighborhood Watch teaches children respect for the law, reinforces community values, and encourages the kind of individual responsibility that makes for healthy, creative neighborhoods populated by safer and happier citizens; and

WHEREAS, Neighborhood Watch programs put neighbors on guard for criminal activity that may occur near their homes, encourage the reporting of suspicious activity to the police, and provide escorts for elderly or vulnerable citizens; and

WHEREAS, The growth of Neighborhood Watch programs is truly encouraging; and

WHEREAS, Neighborhood Watch programs play a significant role and encompass a broad range of activities in making neighborhoods safe; and

WHEREAS, Because of the significance and scope of Neighborhood Watch programs in making neighborhoods safe, it is important that the State of California recognize the many contributions of the residents of this state and of law enforcement officers; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the month of August 1997 be declared Neighborhood Watch Month; and be it further

*Resolved,* that on the occasion of Neighborhood Watch Month, the Legislature of the State of California commends those California residents who have participated in Neighborhood Watch programs for their distinguished service to their communities by uniting with their neighbors and law enforcement to keep their neighborhoods safe, and encourages all Californians to join in this effective means of fighting crime in their neighborhoods.

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## RESOLUTION CHAPTER 65

Senate Concurrent Resolution No. 22—Relative to the State Highway Route 156 Hollister Bypass Project.

[Filed with Secretary of State July 2, 1997.]

WHEREAS, The State Highway Route 156 Hollister Bypass is nearing completion; and

WHEREAS, The bypass will include construction of a new bridge crossing the San Benito River which is to be designated 43-44; and

WHEREAS, Ed Hanna was a longtime county employee, having worked in the 1940's as the county surveyor and also worked as the county engineer and road commissioner; and

WHEREAS, Ed Hanna was a respected member of the County Engineers Association; and

WHEREAS, It is appropriate that the new bridge crossing the San Benito River be dedicated to the memory of Ed Hanna, and that the bypass be named in honor of military veterans; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the bridge designated 43-44 on the State Highway Route 156 Hollister Bypass is hereby officially designated the Ed Hanna Memorial Bridge, and that the State Highway Route 156 Hollister Bypass is hereby officially designated the Veterans Memorial Highway; and be it further

*Resolved,* That the Department of Transportation is requested to determine the cost of appropriate plaques and markers, consistent with the signing requirements of the state highway system, showing these special designations and, upon receiving donations from nonstate sources sufficient to cover that cost, to erect appropriate plaques and markers showing these special designations; and be it further

*Resolved,* That the Secretary of the Senate transmit a copy of this resolution to the Director of Transportation.

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## RESOLUTION CHAPTER 66

Assembly Concurrent Resolution No. 22—Relative to driver education.

[Filed with Secretary of State July 8, 1997.]

WHEREAS, It is important to ensure that pupils enrolled in driver education courses that are offered as part of the adopted course of study in schools of the public school system are fully aware of all modes of transportation; and

WHEREAS, The promotion of alternatives to travel by automobile, including, but not limited to, travel by bus, intercity rail, commuter rail, bicycle, including bicycle safety education, and carpooling, is necessary to enhance mobility and improve air quality throughout the state; and

WHEREAS, Pupils need to be informed that these alternative modes of travel provide benefits to the state's environment, encourage economic opportunities, and build cultural bridges for the communities that promote their use; and

WHEREAS, The creation of a well-informed citizenry enhances the vitality of the state; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Legislature recommends that schools include in driver education courses material that encourages the use of transit and alternative modes of travel as equally positive and enjoyable as the use of automobiles; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit a copy of this resolution to the State Board of Education and the Superintendent of Public Instruction for distribution to school districts maintaining grades 9 to 12.

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## RESOLUTION CHAPTER 67

Assembly Joint Resolution No. 8—Relative to vehicles.

[Filed with Secretary of State July 8, 1997.]

WHEREAS, This state supports safe and reliable trucking businesses and drivers; and

WHEREAS, All trucks known as "longer combination vehicles" encroach considerably into adjacent lanes while turning, and, according to the Department of Transportation, cannot operate safely in a majority of the urban areas in the state; and

WHEREAS, Due to their longer length, greater number of trailers and articulation points, and generally greater instability, traffic

accidents involving triple trailer trucks are expected to be more severe than single trailer truck accidents; and

WHEREAS, A truck weighing 80,000 pounds is more than twice as likely to be involved in a fatal crash than a truck weighing 50,000 pounds; and

WHEREAS, The steering sensitivity of tractor semitrailers falls sharply as the gross vehicle weight increases, making fatal crashes more likely due to the operator's diminished ability to control the truck; and

WHEREAS, Due to the higher center of gravity in heavier trucks, those vehicles are more likely to roll over; and

WHEREAS, Overlength trucks, such as "longer combination vehicles," result in "off-tracking" during turns, where a 57-foot long single truck will necessarily either roll over the curb or swing out into the oncoming lane of traffic; and

WHEREAS, One 80,000 pound tractor semitrailer that is in compliance with all regulations does as much damage to the roads as 9,600 cars; and

WHEREAS, "Longer combination vehicles" are currently prohibited in California because of the threat that those vehicles present to highway safety; and

WHEREAS, The Legislature supports truck size and weight standards currently established by the Vehicle Code; and

WHEREAS, The Legislature opposes any efforts to increase the size and weight of commercial trucks; and

WHEREAS, The Legislature opposes any efforts to weaken hours of service regulations or to provide geographic exceptions to the prohibition against "longer combination vehicles" in the State of California; now, therefore be it

*Resolved by the Assembly and Senate of the State of California, jointly,* That the Legislature urges the President and the Congress of the United States to maintain the current standards relating to truck size and weight set forth in the Intermodal Surface Transportation Efficiency Act of 1991 (P.L. 102-240); and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

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## RESOLUTION CHAPTER 68

Assembly Joint Resolution No. 11—Relative to nutrition services.

[Filed with Secretary of State July 8, 1997.]

WHEREAS, Many of our senior citizens rely on the Congregate Nutrition Services under Subpart 1 (commencing with Section 3030e) of Part C of Subchapter 3 of Chapter 35 of Title 42 of the United States Code, the Older Americans Act, for their main source of nutrition; and

WHEREAS, Many of our senior citizens rely on the Home Delivered Nutrition Services under Subpart 2 (commencing with Section 3030f) of Part C of Subchapter 3 of Chapter 35 of Title 42 of the United States Code, the Older Americans Act, for their only source of nutrition; and

WHEREAS, In many cases, the delivery person may be the only person who sees the senior citizen daily, and that person also serves as a resource for other needs that the senior citizen may have; and

WHEREAS, Delivered meals to a home-bound senior citizen is very cost-effective, since nutrition is basic to maintaining health and life; and

WHEREAS, Without home-delivered meals to home-bound seniors, they are forced into higher levels of care and the residential and skilled nursing facilities that those seniors are moved to cost much more; and

WHEREAS, Most of the cost of care in residential homes and skilled nursing facilities are passed on to the state and the federal government; and

WHEREAS, The means by which lowest cost under which care may be provided is to maintain these senior citizens in their own homes; now, therefore, be it

*Resolved by the Assembly and Senate of the State of California, jointly,* That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to maintain current levels of funding of Congregate Nutrition Services under Subpart 1 (commencing with Section 3030e) of Part C of Subchapter 3 of Chapter 35 of Title 42 of the United States Code, and Home Delivered Nutrition Services under Subpart 2 (commencing with Section 3030f) of Subchapter 3 of Chapter 35 of Title 42 of the United States Code; and be it further

*Resolved,* That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to index annual cost-of-living increases in funding for Congregate Nutrition Services and Home Delivered Nutrition Services; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

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# RESOLUTION CHAPTER 69

Assembly Joint Resolution No. 29—Relative to military base closures.

[Filed with Secretary of State July 8, 1997.]

WHEREAS, On Monday, May 19, 1997, the United States Department of Defense issued its Quadrennial Defense Review; and

WHEREAS, The Quadrennial Defense Review calls for Congress to approve two more rounds of Base Realignment and Closures (BRACs), including a round in 1999 and a round in 2001; and

WHEREAS, California has the largest number of military bases of any state and is therefore a potential target for more military base closures; and

WHEREAS, California already has experienced its fair share of military base closures; and

WHEREAS, In previous rounds of military base closures, California suffered the closure or realignment of 29 bases; and

WHEREAS, There are 36 remaining facilities in our state; and

WHEREAS, Military base closures and realignments in California have resulted in the loss of half a million direct and indirect jobs in our state; and

WHEREAS, Many other states have already begun intensive campaigns to save military bases; now, therefore, be it

*Resolved by the Assembly and Senate of the State of California, jointly,* That the Legislature respectfully memorializes the President and the Congress of the United States to adopt a number of guidelines and policies in crafting any additional BRAC legislation:

(1) An effort should be made to minimize closures in states such as California which have already borne their fair share of cuts.

(2) If additional closures take place, it is essential that:

(A) Sufficient funds are held in escrow to assure adequate cleanup of military bases, including funds for state oversight.

(B) Property transfer procedures that allow for the quick conversion and reuse of facilities are adopted.

(C) Efficient procedures are adopted to expedite conversion of military base housing.

(D) Consistent policies relating to the ability of Local Reuse Authorities to retain credits for air emissions are adopted.

(E) Policies are adopted that allow for the rapid upgrading of military base infrastructure, including utilities; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the United States House of Representatives,

and to each Senator and Representative from California in the Congress of the United States.

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## RESOLUTION CHAPTER 70

Senate Joint Resolution No. 2—Relative to the Gulf War Syndrome.

[Filed with Secretary of State July 10, 1997.]

WHEREAS, Nearly 120,000 Californians answered their country's call and put themselves at great risk of personal injury and death by serving in the Persian Gulf War; and

WHEREAS, Since returning home from the Persian Gulf more than 100,000 veterans of the war have registered with the Veterans Administration's Persian Gulf War registry with medical complaints ranging from chronic fatigue, skin rashes, chronic headaches, memory loss, muscle and joint pain, neurological disorders, sleep disturbances, respiratory troubles, digestive ailments, cardiovascular problems, abnormal weight loss, menstrual disorders, fertility problems, miscarriages, and birth defects; and

WHEREAS, The complex of illnesses known as the "Gulf War Syndrome" was recently documented in studies completed by both the Centers for Disease Control and the United States Navy that found that Persian Gulf War veterans are suffering from health problems at a far higher rate than other troops; and

WHEREAS, Recently the Pentagon and the Department of Defense reversed their previous denial that United States troops had in fact been exposed to chemical weapons during the war, but could not locate military logs covering eight days in March 1991 when tens of thousands of United States and allied troops were accidentally exposed to chemical or biological agents; and

WHEREAS, The Presidential Advisory Committee on Gulf War Veteran's Illnesses recently released its report that found that the Pentagon has not "acted credibly" in its handling of the issue of troop exposure to chemical weapons; and

WHEREAS, The California Legislature, on February 5, 1991, adopted Senate Joint Resolution No. 5 that memorialized the President of the United States "in his commitment in sending troops into battle, and creating a new generation of veterans of foreign wars, to be equally committed to providing for their health care needs, caring for their family support needs, and all other attendant needs they will experience as a result of war"; now, therefore, be it

*Resolved by the Senate and Assembly of the State of California, jointly,* That the Legislature of the State of California proclaims its concern that the United States government has not fully met its moral obligation to attend to the health care and family support

needs of its Persian Gulf War veterans suffering from Gulf War Syndrome; and be it further

*Resolved,* That the Legislature of the State of California respectfully memorializes the Congress and the President of the United States to take immediate action to ensure all of the following:

(1) That all of the health care and family support needs of all Persian Gulf War veterans suffering from these illnesses are met prior to the conclusion of any further studies.

(2) That all possible causes of the Gulf War Syndrome, including infectious diseases, pesticides, smoke and particulates from oil well fires, contact with dust and rubble from exploded shells made of depleted uranium, chemical and biological weapons, and vaccines and pills administered to troops as antidotes to possible chemical and biological agents are expeditiously and exhaustively researched.

(3) That the actions of the Pentagon and the Department of Defense regarding the release of pertinent information regarding Gulf War Syndrome and the exposure of troops to chemical or biological weapons be fully investigated; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the United States House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

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## RESOLUTION CHAPTER 71

Senate Concurrent Resolution No. 34—Relative to the Robert H. “Bob” Weatherwax Memorial Bridge.

[Filed with Secretary of State July 10, 1997.]

WHEREAS, The St. Helena Bridge located at milepost 6.3, designated Bridge 14-16 in Lake County, would provide a unique opportunity to honor an outstanding citizen; and

WHEREAS, Robert H. “Bob” Weatherwax, a resident of Middletown, Lake County, for 44 years, died at the age of 66 on May 4, 1996; and

WHEREAS, During those 44 years, Mr. Weatherwax was appreciated by the entire community as a willing volunteer and contributor in the efforts to develop and construct the Cobb Mountain Elementary School; and

WHEREAS, The Middletown Unified School District recognized him for those efforts with a Certificate of Appreciation in September 1985; and

WHEREAS, Bob Weatherwax assisted in reviving and renewing the Middletown Boosters Club for the Middletown Athletic Program; and

WHEREAS, Mr. Weatherwax's efforts earned him a Certificate of Recognition in 1991 from Lake County as the Middletown Volunteer Citizen of the Year; and

WHEREAS, Mr. Weatherwax served as a past President of the Middletown Luncheon Club and the Middletown Lions Club, and was a founder of the Middletown Merchants; and

WHEREAS, Always contributing to his community, this charitable man donated land for the treatment plant now used by the Callayomi Water District; and

WHEREAS, His contributions of time and energy included serving as head cook for the spring high school field trips and chaperon for senior field trips, as well as many other unselfish acts of serving the community he loved; and

WHEREAS, Mr. Weatherwax was considered the "Honorary Mayor" of Middletown; and

WHEREAS, The citizens of Middletown wish to celebrate and honor Mr. Weatherwax as a civic hero devoted to Middletown, a local businessman, and a devoted Middletown citizen; and now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the St. Helena Bridge located at milepost 6.3, designated Bridge 14-16 in Lake County, is hereby officially redesignated the Robert H. "Bob" Weatherwax Memorial Bridge; and be it further

*Resolved,* That the Department of Transportation is requested to determine the cost of appropriate plaques and markers, consistent with the signing requirements for the state highway system, showing this special designation and, upon receiving donations from nonstate sources covering that cost, to erect those plaques and markers; and be it further

*Resolved,* That the Secretary of the Senate transmit a copy of this resolution to the Director of Transportation.

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## RESOLUTION CHAPTER 72

Assembly Joint Resolution No. 30—Relative to McClellan Air Force Base.

[Filed with Secretary of State July 15, 1997.]

WHEREAS, California has suffered the closure or realignment of 29 bases, including McClellan Air Force Base; and

WHEREAS, The President has promised to keep employees at McClellan Air Force Base working, by bringing in private firms to perform repair work at the facility; and

WHEREAS, Some members of Congress are considering legislation to break that promise, by blocking efforts to privatize McClellan Air Force Base; and

WHEREAS, The proposed federal legislation would bar privatization at McClellan unless three other Air Force depots are operating at impossibly high work levels; and

WHEREAS, Base closures and realignments in California have hurt the economy of our state, by resulting in the loss of half a million direct and indirect jobs in our state; and

WHEREAS, The Department of Defense has called for Congress to approve two more rounds of Base Realignment and Closures (BRACs), including a round in 1999 and a round in 2001; and

WHEREAS, California already has experienced its fair share of base closure-related ill effects; now, therefore, be it

*Resolved by the Assembly and Senate of the State of California, jointly,* That the Legislature respectfully memorializes the President and the Congress of the United States to protect the jobs of the hard-working men and women who serve our country at McClellan, by bringing in private firms to perform repair work at the facility; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the United States House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

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## RESOLUTION CHAPTER 73

Senate Joint Resolution No. 5—Relative to March Air Force Base.

[Filed with Secretary of State July 16, 1997.]

WHEREAS, March Air Force Base, Riverside County, California, has been realigned, and the active Air Force unit has left the base to the joint use of the Air Force reserves and civilian authorities; and

WHEREAS, On July 2, 1993, the President of the United States announced a program to aid the economic recovery of communities suffering base closures and pledged top priority in the early reuse of the base’s assets by the host communities; and

WHEREAS, Property on March Air Force Base has been identified as surplus property that is to be made available for community development, and this property includes the Non-Commissioned Officer Training Academy, composed of classroom space,

dormitories, audio/visual facilities, a physical training area, and open acreage; and

WHEREAS, The Sheriff of Riverside County is an elected, constitutional officer and is responsible for providing training to the officers of the department, and has a history of being involved in providing quality training to the law enforcement community; and

WHEREAS, The Riverside County Sheriff's Department has had to use three separate sites in which to present a Peace Officers Standards and Training (P.O.S.T.) certified law enforcement curriculum, and has had to relinquish its oldest site because of encroaching residential development; and

WHEREAS, The Riverside County Fire Department and the California Department of Forestry must send their personnel out of the county for P.O.S.T. certified law enforcement and fire training; and

WHEREAS, The Riverside County Fire Chief and the Riverside County Sheriff have agreed that public safety training would be more effective as a joint venture, sharing knowledge and resources; and

WHEREAS, The Riverside County Sheriff and Fire Chief have determined that in order to effectively meet the future demands of its citizens on the county's public safety agencies, it must develop a single-site, consolidated, regional public safety training center; and

WHEREAS, The Riverside County Sheriff's Department has determined that the Non-Commissioned Officer (NCO) Training Academy is an appropriate site for a regional training center because of existing infrastructure and the available open land necessary for future development; and

WHEREAS, The California Commission on Peace Officer Standards and Training recommended the creation of regional public safety training centers in its report "Partnerships for a Safer California," prepared pursuant to Section 13508 of the Penal Code; and

WHEREAS, The Riverside County regional training center concept would exceed the commission's recommendations; and

WHEREAS, The Sheriff's Department and the Fire Department of Riverside County have taken a one-year lease on the NCO Training Academy site and have started to develop the site as a regional training center and find that it would be of great benefit to take title to the property through application to the federal government in order to continue development; and

WHEREAS, Federal surplus property has been made available to certain public agencies through a special grant process, but that process is limited and does not accommodate the regional training center, and therefore requires federal legislation amending the process; and

WHEREAS, The United States Department of Justice has been contacted and has shown an interest in the training center and in an amendment to the federal surplus property law (40 U.S.C. Sec.

484(j)(3)) allowing them to act as sponsors for public safety projects; and

WHEREAS, Legislation (H.R. 404 and S. 203 of the 105th Congress) has been introduced in Congress authorizing the Department of Justice to act as a sponsor for public safety projects; and

WHEREAS, This legislation is necessary for Riverside County's training center project and may benefit other jurisdictions in California that are subject to base closures; now, therefore, be it

*Resolved by the Senate and Assembly of the State of California, jointly,* That the Legislature of the State of California respectfully memorializes the Congress of the United States to recognize the importance of the Riverside County training center to the citizens of the county, and to enact H.R. 404 or S. 203 of the 105th Congress or similar legislation that would add public safety projects to the list of programs that may be considered for federal surplus property; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

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## RESOLUTION CHAPTER 74

Senate Joint Resolution No. 18—Relative to freight transportation.

[Filed with Secretary of State July 18, 1997.]

WHEREAS, The Intermodal Surface Transportation Efficiency Act (ISTEA) authorized the United States Department of Transportation to spend $155,000,000,000 to improve the nation's surface transportation system over a five-year period ending in fiscal year 1997; and

WHEREAS, The primary focus of ISTEA was highway construction and improvements, and the interstate highway system is now largely completed; and

WHEREAS, Proposals for reauthorization of ISTEA are being considered by the United States Senate and House of Representatives; and

WHEREAS, It is imperative that the federal government's role in transportation funding place a high priority on providing funding for the heavy infrastructure needed to advance the nation's competitiveness in accommodating the growing international trade shipped through the nation's ports, airports, and border crossings; and

WHEREAS, The economic future of California and the nation depends on our capability to move people and goods through our communities without impeding intrastate movement of people and goods; now, therefore, be it

*Resolved by the Senate and Assembly of the State of California, jointly,* That the State of California finds that efficient, cost-effective, and nondisruptive freight transportation is essential to the economy of the United States and congestion relief is essential to its citizens; and be it further

*Resolved,* That the Legislature memorializes the President and the Congress of the United States to make the intensity of use, including population, vehicle travel miles, and freight movement, a factor in the distribution of funds in the reauthorization of the federal Intermodal Surface Transportation Efficiency Act; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

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## RESOLUTION CHAPTER 75

Assembly Joint Resolution No. 16—Relative to group homes.

[Filed with Secretary of State July 22, 1997.]

WHEREAS, Congress enacted the Fair Housing Amendments Act of 1988, Public Law 100-430 (102 Stat. 1619 (1988)); and

WHEREAS, The act was intended to extend the principle of equal housing opportunity to people with disabilities; and

WHEREAS, While the vast majority of group home operators are responsible individuals, some group home operators are operating group homes which generate a disproportionate number of calls to local law enforcement, straining the resources of local law enforcement and local governments; and

WHEREAS, Variations in housing costs have resulted in some areas of the state having more group homes than other areas; and

WHEREAS, It is not the desire of the California Legislature to attenuate protections afforded to people with disabilities; now, therefore, be it

*Resolved by the Assembly and Senate of the State of California, jointly,* That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to study the impact of the Fair Housing Amendments Act on local governments, and evaluate how well the act is assisting individuals with disabilities; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the United States House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

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## RESOLUTION CHAPTER 76

Assembly Concurrent Resolution No. 59—Relative to the Big Bar and Big Flat Historical Monument.

[Filed with Secretary of State July 23, 1997.]

WHEREAS, The Trinitarianus Chapter Number 62 of the Ancient and Honorable Order of E Clampus Vitus has proposed to construct and dedicate, at no cost to the public, a native stone monument and brass plaque in honor of the historical, gold rush communities of Big Bar and Big Flat within the right-of-way of State Highway Route 299 in Trinity County; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Department of Transportation is requested to grant, without charge, the necessary encroachment permit authorizing an appropriate historical monument and plaque dedicated to the communities of Big Bar and Big Flat to be placed within the right-of-way of State Highway Route 299 in Trinity County, at a site that is approximately 1,050 feet east of post mile marker number 30.5; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit a copy of this resolution to the Director of Transportation, the Director of Parks and Recreation, and to Trinitarianus Chapter Number 62 of the Ancient and Honorable Order of E Clampus Vitus.

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## RESOLUTION CHAPTER 77

Senate Concurrent Resolution No. 33—Relative to religious freedom in China.

[Filed with Secretary of State July 23, 1997.]

WHEREAS, Religious liberty is a fundamental and universal human right; and

WHEREAS, The right to worship has been affirmed by the United States government, and specifically Madeleine Albright, Secretary of State, as a priority of our human rights policy; and

WHEREAS, The State Department's Bureau on Democracy, Human Rights and Labor, and Advisory Committee on Religious Freedom Abroad have identified instances of religious persecution and intolerance worldwide; and

WHEREAS, Annual "Human Rights Country Reports" issued by the State Department have shown that religious persecution and abuse are pervasive and consistent; and

WHEREAS, The United Nations and its High Commission on Human Rights have also documented examples of religious persecution and intolerance on a global scale; and

WHEREAS, The People's Republic of China has engaged and is now engaging in a policy of religious repression against Evangelical Protestants, Roman Catholics, Muslims, Buddhists, Jews, and other religious believers, the Central Committee of the Communist Party having identified these citizens as "a principal threat to political stability" within that nation; and

WHEREAS, The People's Republic of China has wrongfully arrested and imprisoned for religious activities Bishop Su Zhimin, Bishop Thomas Zeng Jingmu, Bishop Joannes Han Dingxiang, Bishop An Shuxin, Reverend Cui Singlang, Reverend Qin Guoliang, the Reverend Charles Guo, Mr. Pan Kunming, Miss Pao Yanping, Mr. Yu Qixiang, Mr. Yu Shuishen, Miss Gao Shuping, and Mr. Yin Guozhen, and has placed Bishop Joseph Fan Zhongliang and Reverend Zan Caijun under police surveillance after ransacking their homes and seizing religious articles; and

WHEREAS, Church leaders and believers have regularly been subject to persecution throughout the People's Republic of China, with widescale arrests occurring in Jiangxi and Yujia, and violence against persons and property committed in the provinces of Zheijiang and Shaanxi; and

WHEREAS, Pope John Paul II recently sounded a call against regimes that "practice discrimination against Jews, Christians, and other religious groups, going even so far as to refuse them the right to meet in private for prayer," declaring that "this is an intolerable and unjustifiable violation, not only of all the norms of current international law, but of the most fundamental human freedom, that of practicing one's faith openly"; and

WHEREAS, The National Association of Evangelicals, in January 1996, issued a Statement of Conscience and Call to Action, subsequently commended or endorsed by the Southern Baptist Convention, the Executive Council of the Episcopal Church, and the General Assembly of the Presbyterian Church, United States of America, in which they pledged to end their "silence in the face of the suffering of all those persecuted for their religious faith," and called upon political leaders to do what is in their power to "take appropriate action to combat the intolerable religious persecution now victimizing fellow believers and those of other faiths"; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the Legislature of the State of California hereby condemns all acts of religious intolerance and persecution worldwide, and supports ongoing efforts by the United States government and its leaders to ensure that all people are able to openly express their religious beliefs without fear of violence or persecution; and be it further

*Resolved,* That the Legislature strongly urges the State Department to use all diplomatic means at its disposal to effect the speedy release of all persons being imprisoned because of their religious beliefs as a demonstration of this nation's adherence to the principle of freedom of religion; and be it further

*Resolved,* That the Legislature encourages the Government of the People's Republic of China to carefully consider the 1996 China Human Rights Report by the United States Department of State and to take steps to address the concerns and issues referenced in the report; and be it further

*Resolved,* That the Legislature hereby condemns the egregious violation of human rights and religious liberty of Evangelical Protestants, Roman Catholics, Muslims, Buddhists, Jews, and other persecuted religious believers in the People's Republic of China and calls upon the government of the People's Republic of China to end that persecution; and be it further

*Resolved,* That the Legislature calls upon the President and Congress of the United States to continue to make the cessation of persecution of religious believers in the People's Republic of China a priority objective of the United States' foreign policy; and be it further

*Resolved,* That the Legislature encourages the People's Republic of China to immediately release from imprisonment Bishop Su Zhimin, Bishop Thomas Zeng Jingmu, Bishop Joannes Han Dingxiang, Bishop An Shuxin, Reverend Cui Singlang, Reverend Qin Guoliang, and the Reverend Charles Guo, as well as Mr. Pan Kunming, Miss Pao Yanping, Mr. Yu Qixiang, Mr. Yu Shuishen, Miss Gao Shuping, Mr. Yin Guozhen, and all other imprisoned religious prisoners of conscience; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to representatives of the government of the People's Republic of China, the President and Vice President of the United States, the United States Congress, the United Nations Human Rights Commission, the National Conference of Catholic Bishops, the United States Catholic Conference, the Apostolic Pro-Nuncio to the United States, the Permanent Observer of the Holy See to the United Nations, the Cardinal Kung Foundation, the Secretary of State, Freedom House, and the World Evangelical Fellowship.

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# RESOLUTION CHAPTER 78

Assembly Joint Resolution No. 21—Relative to spent nuclear fuel.

[Filed with Secretary of State July 24, 1997.]

WHEREAS, The United States Department of Energy has planned five shipments of spent nuclear fuel rods from seven Asian nations through the San Francisco Bay to the Concord Naval Weapons Station over the next 13 years, with the first shipment scheduled for early 1998; and

WHEREAS, From the Concord Naval Weapons Station, the spent nuclear fuel rods will be transported by rail or truck through northern California, including Sacramento, and through Nevada and Utah before arriving at the United States Department of Energy's National Engineering and Environmental Laboratory in Idaho; and

WHEREAS, The proposed rail route from California to Idaho will involve the shipments passing through the Feather River Canyon where trains have derailed 28 times in 16 years; and

WHEREAS, The combined shipments of spent nuclear fuel rods will involve approximately one-half ton of uranium and small amounts of plutonium; and

WHEREAS, The planned shipments of spent nuclear fuel rods will be made by private foreign flag ships; and

WHEREAS, The United States Department of Energy intends to ship the spent nuclear fuel rods to the Concord Naval Weapons Station in a total of 38 20-ton steel casks purportedly able to withstand airdrops from 200 feet and immersion in water depths of 650 feet; and

WHEREAS, The policy of bringing spent fuel from foreign countries to the United States was adopted as a part of the Atoms for Peace program enacted 50 years ago, when 41 countries agreed not to make nuclear weapons in exchange for enriched uranium to use in research reactors; and

WHEREAS, Under the Atoms for Peace program, the United States agreed to take the used fuel to relieve foreign countries of problems with disposal and ease fears about terrorists abroad using the fuel to make bombs; and

WHEREAS, Shipments of similar nuclear fuel rods began on the east coast of the United States with no public notice as early as 1958, with a total of 150 shipments through the Charleston Naval Weapons Station in South Carolina; and

WHEREAS, The Concord Naval Weapons Station has been the secret west coast shipping point for nuclear bombs and missiles since the beginning of the Cold War; and

WHEREAS, The proposed route for the shipments to the Concord Naval Weapons Station runs through the San Francisco Bay area, placing over 6.5 million residents of California's second largest metropolis in harm's way; and

WHEREAS, Portions of the San Francisco Bay area are subject to intense shaking amplification and are still recovering from major damage caused by the 1989 Loma Prieta earthquake; and

WHEREAS, The planned shipments will result in unreimbursed local government expenditures for enhanced emergency and hazardous materials response systems; and

WHEREAS, The United States Department of Energy has inadequately addressed potential environmental and safety impacts in the Final Environmental Impact Statement for the shipment project, failed to fully inform local communities in California of the catastrophic impacts of a potential shipment accident, and failed to adequately document the necessity of using the Concord station rather than alternative shipping points, such as the naval base at Bremerton, Washington; and

WHEREAS, If the steel casks containing the spent nuclear fuel rods are breached, there is no assurance that persons, land, and waters will not be exposed to dangerous radioactive materials; and

WHEREAS, This state is committed foremost to protecting the health and safety of its people and environment; and

WHEREAS, On behalf of, and in addition to, local government officials in the nine-county San Francisco Bay area, including those with the City and County of San Francisco, the County of Contra Costa, the City of Concord, the San Francisco Bay Conservation and Development Commission, and the Association of Bay Area Governments, 11 Members of the Assembly have requested that the state Attorney General sue the United States Department of Energy for a federal court injunction to halt the shipments through the San Francisco Bay region to Concord; now, therefore, be it

*Resolved by the Assembly and Senate of the State of California, jointly,* That the Legislature of the State of California memorializes the President and Congress of the United States to call upon the Department of Energy to halt indefinitely the five planned shipments of spent nuclear fuel rods through the San Francisco Bay to the Concord Naval Weapons Station for land transport to Idaho; and be it further

*Resolved,* That the Department of Energy is further memorialized to prevent any planned shipments of spent nuclear fuel rods until appropriate public notice has been provided and the safety and environmental impacts are fully addressed, including how the full catastrophic impacts of a potential shipment accident would be addressed by federal, state, and local governments; and be it further

*Resolved,* That the Department of Energy is further memorialized to prevent any planned shipments of spent nuclear fuel rods until there is a legally binding agreement that the federal government will fully compensate local governments, the state, individuals, and businesses that might be impacted by the shipments, including compensation for any accidents or security costs associated with the shipments; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to each Senator and Representative from California in the Congress of the United States, and the Secretary of the Department of Energy.

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## RESOLUTION CHAPTER 79

Assembly Joint Resolution No. 22—Relative to the aircraft carrier Midway.

[Filed with Secretary of State July 24, 1997.]

WHEREAS, San Diego has a lengthy history associated with the United States Navy and Naval Air Forces, and San Diego was shaped by the birth of aviation technology and is proudly and inextricably linked to the military's presence; and

WHEREAS, The acquisition of the aircraft carrier Midway would preserve a vital part of United States military history and its establishment as a museum would be a fitting memorial to San Diego's contributions to victory in World War II; and

WHEREAS, The carrier museum would add excitement to the maritime ambience of the cruise ship center, Mission Bay, Seaport Village, the shipyards, and harbor islands; and

WHEREAS, The carrier museum would be an attraction to both domestic and foreign tourists, thereby enhancing the global competitive position of the nearby convention center; and

WHEREAS, The added attraction of a carrier museum would result in longer tourist stays, with consequent increases in retail sales, hotel and motel occupancy, and restaurant patronage, resulting in higher sales and transient occupancy tax revenues; and

WHEREAS, The projected number of annual visitors to the carrier museum would exceed 700,000, bringing at least fifty million dollars ($50,000,000) in additional revenues into the regional economy; and

WHEREAS, A carrier museum could be used as an ongoing exposition to showcase San Diego's leadership in aerospace and defense technology, to develop educational programs for schoolage children, and to provide entertainment attractions based on naval aviation history; and

WHEREAS, The presence of a military museum in San Diego would promote positive community relations between the citizens and the military; and

WHEREAS, The aircraft carrier Midway has been recently decommissioned and is in good structural condition, and will soon be coming up for sale as military surplus; and

WHEREAS, A group of like-minded San Diego citizens have established a nonprofit corporation and a committee to pursue the acquisition of the aircraft carrier Midway; now, therefore, be it

*Resolved by the Senate and Assembly of the State of California, jointly,* That in order to enhance the public's awareness of the contributions of the citizens of the State of California and the County of San Diego to military preparedness and, in particular, naval aviation history, and to enhance the region's economy by increasing tourism and creating new employment opportunities, the Legislature of the State of California endorses the efforts to acquire the aircraft carrier Midway as a permanent museum, educational, and entertainment complex to be located in San Diego Bay; and be it further

*Resolved,* That the Legislature of the State of California respectfully requests the President and Congress of the United States, and the Joint Chiefs of Staff of the Department of Defense, to support the efforts of the citizens of the State of California and the County of San Diego to acquire the aircraft carrier Midway; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

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## RESOLUTION CHAPTER 80

Assembly Joint Resolution No. 28—Relative to Filipino war veterans.

[Filed with Secretary of State July 24, 1997.]

WHEREAS, During World War II, the military forces of the Commonwealth of the Philippines were drafted to serve in the United States armed forces by Executive Order of President Franklin Delano Roosevelt of July 26, 1941; and

WHEREAS, Filipino soldiers defended the American flag in the battles of Bataan and Corregidor; and

WHEREAS, Thousands of Filipino prisoners of war died during the 65-mile Bataan Death March, and those who survived were imprisoned under inhumane conditions, suffered numerous casualties, and endured four long years of occupation; and

WHEREAS, The soldiers who escaped capture, together with Filipino civilians, valiantly fought against the occupation forces, their guerrilla attacks foiling the plans of the Japanese for a quick takeover

of the region, and allowing the United States the time needed to prepare forces to defeat Japan; and

WHEREAS, Despite the vital participation of the Filipino soldiers in the outcome of the war, the 79th United States Congress voted after the war ended to deny benefits and recognition to the Filipino World War II veterans, in what was known as the Rescissions Act of 1946; and

WHEREAS, On February 26, 1997, House Resolution 836, a bill to provide full benefits from the Department of Veterans Affairs to veterans who served in the Philippine Commonwealth Army, and the Special Philippine Scouts, was introduced in the House of Representatives of the United States Congress by Representative Benjamin Gilman of New York, and Representative Bob Filner of this state; now, therefore, be it

*Resolved by the Assembly and Senate of the State of California, jointly,* That the Legislature of the State of California commends the heroic acts of Filipino war veterans, and honors these individuals for their contributions to the United States armed forces; and be it further

*Resolved,* That the Legislature of the State of California respectfully memorializes and urges the President and Congress of the United States to enact House Resolution 836; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

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## RESOLUTION CHAPTER 81

Senate Concurrent Resolution No. 51—Relative to the Nisei Baseball Leagues.

[Filed with Secretary of State July 25, 1997.]

WHEREAS, The sport of baseball, universally known as America's national pastime, is rich with stories, legends, history, and culture; and

WHEREAS, Although not widely known in this country until recent years, the Japanese American community has contributed a significant chapter to the history of baseball that parallels its rich contributions to the heritage of American society and the foundations on which this country stands; and

WHEREAS, Beginning at the turn of the 20th century, "Issei", or first-generation Japanese Americans, cultivated a love for the game of baseball that eventually led to the development of an extensive,

highly regarded network of separate, Japanese American leagues throughout the United States that competed in both this country and abroad; and

WHEREAS, By the 1920's, more than 100 teams had been formed, consisting primarily of talented "Nisei," or second-generation Japanese Americans, who proudly continued the passionate baseball tradition of their Issei forefathers; and

WHEREAS, Though the world-class Nisei teams, like the teams in the Negro Leagues and in the All-American Girls Professional Baseball Leagues, played mostly against each other in response to the discrimination and segregation they faced in their daily lives, they also successfully competed against high school, college, and semiprofessional teams from white America, teams from the Negro Leagues, and even barnstorming teams led by professional baseball legends like Babe Ruth, Lou Gehrig, Ted Williams, Jackie Robinson, and Joe DiMaggio; and

WHEREAS, In 1937, all-star teams consisting of Nisei players from central and northern California traveled to Japan, Korea, and Manchuria, as ambassadors of good will, where they impressed audiences with their competitive spirit, sportsmanship, and talented, aggressive style of fast-paced American baseball; and

WHEREAS, Later, during the days of internment during World War II, the passion of these skillful Japanese American players kept the national pastime alive, poignantly evidenced by the fact that Gila River, one of 10 internment camps, had 3 divisions and 28 teams; and

WHEREAS, After World War II, many Nisei players pursued their dreams of professional baseball in Japan, and in so doing, helped to promote cultural exchanges and visits of American major league teams and players; and

WHEREAS, In spite of this rich tradition and history, the popularity of the Nisei Baseball Leagues gradually faded as discrimination and segregated sports eased in American society, until the Leagues almost disappeared altogether in the early 1970's; and

WHEREAS, That rich history has, in recent years, fortunately been rediscovered for the benefit of all Americans, through, among other things, historical exhibits like "Diamonds in the Rough: Japanese Americans in Baseball," a project jointly curated by the Nisei Baseball Research Project, the National Japanese American Historical Society, the California State Capitol Museum, and the Japanese Cultural and Community Center of Northern California, on tour through the United States and currently on display at the California State Capitol Museum; and

WHEREAS, This fascinating exhibit includes rare photographs, personal artifacts, and historical documents about the history of Japanese Americans in the sport of baseball, and celebrates the legacy of the great Nisei players and the development of the Nisei Baseball Leagues in the face of discrimination and hardship during that time; and

WHEREAS, In honor of their contribution to baseball, the Nisei Baseball Leagues should rightfully have a permanent exhibit at the National Baseball Hall of Fame in Cooperstown, New York, a proposal supported by, among others, the San Francisco Giants, Los Angeles Dodgers, and San Diego Padres; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the Nisei Baseball Leagues should be recognized and rightfully honored for their contribution to the game of baseball by having a permanent exhibit on display at the National Baseball Hall of Fame in Cooperstown, New York; and be it further

*Resolved,* That the Secretary of the Senate transmit forthwith copies of this resolution to the President of the National Baseball Hall of Fame and the Commissioner of Baseball.

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## RESOLUTION CHAPTER 82

Assembly Joint Resolution No. 7—Relative to Friant Dam.

[Filed with Secretary of State July 28, 1997.]

WHEREAS, On the evening of January 2, 1997, inflows at Millerton Lake, behind Friant Dam, surged from 22,441 cubic feet per second to 95,040 cubic feet per second in seven hours; and

WHEREAS, Millerton Lake storage peaked at a record 530,452 acre-feet, nearly 10,000 acre-feet above capacity, on January 3, 1997; and

WHEREAS, Widespread flooding followed along the San Joaquin River below Friant Dam; and

WHEREAS, The resultant flooding partially washed out bridges linking the Counties of Fresno and Madera as well as homes and the Friant Fish Hatchery; and

WHEREAS, Downstream levee breaks flooded thousands of acres of farmland; and

WHEREAS, The yield of the San Joaquin River system is currently overcommitted with respect to meeting obligations to contractors, fisheries, and the water quality concerns of downstream water users; and

WHEREAS, The waters of the San Joaquin River, as impounded by the Friant Dam, are currently put to beneficial use serving some of the most productive small family farms in the nation in the water-short Friant Division of the federal Central Valley Project; and

WHEREAS, Diversions from the San Joaquin River have resulted in diminished water quality for downstream users, particularly those on the lower San Joaquin River; and

WHEREAS, California’s population is projected to increase by 20 million residents in the next 25 years, particularly in the Central

Valley region of the state, thereby placing further demands on the state's ability to provide flood protection as well as an adequate water supply; and

WHEREAS, The increasing difficulty of meeting these various, sometimes competing, needs gives cause to review the feasibility of raising Friant Dam to help meet those needs by building on the existing investment on the San Joaquin River; and

WHEREAS, The United States Bureau of Reclamation reconnaissance studies conducted in 1952, 1975, and 1982 attest to the physical, but not the economic, feasibility of raising Friant Dam; now, therefore, be it

*Resolved by the Assembly and Senate of the State of California, jointly,* That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to authorize and fund a prompt evaluation of the physical potential for, and economic feasibility of, raising Friant Dam and making use of the increased capacity to help meet flood protection and water supply needs for the citizens of this state, without impairing the existing rights of, and benefits to, and without altering the costs to, the current users of the waters of the San Joaquin River ; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, the Secretary of the Interior, the Speaker of the House of Representatives, and each Senator and Representative from California in the Congress of the United States.

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## RESOLUTION CHAPTER 83

Assembly Concurrent Resolution No. 65—Relative to Truck Driver Appreciation Week.

[Filed with Secretary of State August 5, 1997.]

WHEREAS, The trucking industry performs an invaluable service for the citizens of the State of California, delivering food and goods to every home, school, business, and community; and

WHEREAS, Trucks transport nearly 100 percent of all goods and products needed by California's 33 million citizens; and

WHEREAS, More than 70 percent of California's communities receive all freight by truck; and

WHEREAS, The trucking industry employs one of every 13 Californians and has an annual payroll of more than 26 billion dollars; and

WHEREAS, The trucking industry is committed to safe travel for all motorists on California's roads and highways; and

WHEREAS, The trucking accident rate in California has been reduced by more than 38 percent over the past decade, while truck miles traveled have increased by more than 40 percent; and

WHEREAS, California's professional truck drivers are among the safest in the world; and

WHEREAS, Hundreds of professional truck drivers have performed extraordinary acts of courage and heroism while aiding and rescuing injured and stranded motorists; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the week of August 17 to August 23, 1997, is hereby declared Truck Driver Appreciation Week in honor of those men and women who play such a vital role in our state's economy.

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## RESOLUTION CHAPTER 84

Assembly Joint Resolution No. 25—Relative to breast cancer research.

[Filed with Secretary of State August 5, 1997.]

WHEREAS, Breast cancer is the most common malignancy found in women and the most common cause of cancer-related death in women 15 to 54 years of age; and

WHEREAS, Breast cancer is the second leading cause of cancer-related deaths among women, with one in every eight women likely to develop breast cancer in her lifetime, and 183,400 new diagnoses of breast cancer each year; and

WHEREAS, It is estimated that 46,240 women died from breast cancer in 1996, with five new diagnoses and one death occurring every 15 minutes in the United States, and worldwide, every 30 seconds a new diagnosis of breast cancer and a death as a result of breast cancer; and

WHEREAS, The cause or causes of breast cancer have not been identified and no cure is available at this time, which demonstrates that more intense research is needed to improve care and treatment and to find a cure for this dreadful disease; and

WHEREAS, The Congress has introduced bills in the United States Senate and the House of Representatives, S.R. 1937 and H.R. 3401 and most recently H.R. 407 (January 9, 1997), which would create a new first-class postage stamp at a rate of one cent ($0.01) above the first-class postage rate charged which would be offered to postal patrons on a voluntary basis as an alternative to the rate that would otherwise apply; and

WHEREAS, The amounts attributable to the one cent ($0.01) differential established under the Breast-Cancer Research Stamp Act

of 1997 would be paid by the United States Postal Service to the National Institutes of Health under arrangements by which these agencies mutually agree to carry out the purposes of the act; and

WHEREAS, The Cure Breast Cancer postage stamp has received strong support and endorsements from Members of Congress, breast cancer research organizations, corporations, medical associations, voluntary organizations, and state-elected officials, leading to the introduction of the Breast-Cancer Research Stamp Act of 1997 to create the Cure Breast Cancer postal stamp donation program; now, therefore be it

*Resolved by the Assembly and Senate of the State of California, jointly,* That the Legislature urges the Congress and the President to enact H.R. 407 (January 9, 1997), the Breast-Cancer Research Stamp Act of 1997, to create the Cure Breast Cancer Research Postage Stamp and memorialize the Board of Governors of the United States Postal Service to implement this voluntary program to supplement the funds available for breast cancer research; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Board of Governors of the United States Postal Service, and to each Senator and Representative from California in the Congress of the United States.

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## RESOLUTION CHAPTER 85

Senate Concurrent Resolution No. 25—Relative to highways.

[Filed with Secretary of State August 7, 1997.]

WHEREAS, Kenneth L. Maddy was elected to the Assembly in 1970 and served there with distinction until 1979; and

WHEREAS, Kenneth L. Maddy was elected to the Senate in 1979, and has served there with distinction to the present day; and

WHEREAS, Kenneth L. Maddy served as Senate Republican Leader from 1987 to 1995, one of the longest tenures ever recorded in that position; and

WHEREAS, Kenneth L. Maddy has earned a reputation as one of the State Capitol's most influential and effective legislators and is recognized as a legislative leader with impeccable integrity; and

WHEREAS, A portion of State Highway Route 99 in Merced County through the City of Livingston was the last portion of the highway that still had traffic signals slowing traffic on a major thoroughfare that traverses most of the state and carries a heavy

volume of traffic including a large number of heavy trucks that move a large amount of economic goods through the Central Valley; and

WHEREAS, Studies to upgrade that portion of the route, a project called the Livingston Bypass, had been underway since 1969, and Ken Maddy provided the leadership to bring about community consensus on the routing of the bypass; and

WHEREAS, Kenneth L. Maddy established and maintained the project as the top transportation priority in his Senate district and worked tirelessly to adopt the project as part of the State Transportation Improvement Program; and

WHEREAS, The Livingston Freeway was opened to traffic on January 8, 1997; and

WHEREAS, In recognition of his dedication to the needs of his constituents and the safety of motorists driving on State Highway Route 99, it is appropriate to designate the newly constructed portion of State Highway Route 99 in and around the City of Livingston as the Kenneth L. Maddy Freeway; and

WHEREAS, The Cities of Fresno and Clovis are two of a few cities in the United States to be within a one-hour drive of three national parks; Yosemite, Kings Canyon, and Sequoia National Parks, and the Sierra National Forest; and

WHEREAS, A unique circumstance exists that three major state highways in Fresno County, both existing and under construction, lead to these national treasures; and

WHEREAS, Fresno County is proud to be part of the gateway to these national treasures; and

WHEREAS, It is appropriate, therefore, that those state highways be named for their ultimate destinations; and

WHEREAS, Rose Ann Vuich was elected to the Senate in 1976 to represent the 15th Senate District, comprised of Tulare and Kings Counties, approximately half of Fresno County, and a portion of Kern County; and

WHEREAS, Born on January 27, 1927, in Cutler, California, and a lifetime resident of Tulare County, Rose Ann Vuich was the first woman elected to the California Senate; and

WHEREAS, Rose Ann Vuich served with distinction on the Senate Transportation Committee, the Senate Rural Caucus, and as Chair of the Senate Select Committee on Rural Issues; and

WHEREAS, Her role in transportation and rural issues led her to be an active supporter of the construction of the Fresno County portions of State Highway Route 41, the southern gateway to Yosemite National Park, and State Highway Route 180, the gateway to Sequoia and Kings Canyon National Parks; and

WHEREAS, Studies to construct both freeways began in 1955 and construction of the first portion of State Highway Route 41 began in 1970; and

WHEREAS, In 1976, the funding for the completion of those freeways was uncertain; and

WHEREAS, As a Senator, Rose Ann Vuich championed "constructing the road that leads to nowhere to the road that leads to somewhere"; and

WHEREAS, As a Senator, Rose Ann Vuich used her leadership skills to secure funding for the completion of the construction of State Highway Route 41 and State Highway Route 180; and

WHEREAS, State Highway Route 41 and State Highway Route 180 were reopened to traffic on September 20, 1982; and

WHEREAS, In recognition of Rose Ann Vuich's dedication to the needs of her constituents and the economic growth of Fresno County by the construction of those magnificent freeways, it is appropriate to designate the State Highway Route 41 and State Highway Route 180 interchange in the City of Fresno as the Rose Ann Vuich Interchange; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the newly constructed portion of State Highway Route 99 in and around the City of Livingston is hereby officially designated the Kenneth L. Maddy Freeway; and be it further

*Resolved,* That the portion of State Highway Route 41 in Fresno County from the intersection with Elkhorn Avenue to the intersection with Ventura Avenue and from the intersection with Herndon Avenue to the Madera County line is hereby officially designated the Yosemite Freeway; and be it further

*Resolved,* That the portion of State Highway Route 168 in Fresno County from the intersection with State Highway Route 180 to the intersection with Armstrong Avenue is hereby officially designated the Sierra Freeway; and be it further

*Resolved,* That the portion of State Highway Route 180 from the intersection with Brawley Avenue to the intersection with Highland Avenue is hereby officially designated the Sequoia-Kings Canyon Freeway; and be it further

*Resolved,* That the State Highway Route 41 and State Highway Route 180 interchange in the City of Fresno is hereby officially designated the Rose Ann Vuich Interchange; and be it further

*Resolved,* That the Department of Transportation is requested to determine the cost of appropriate plaques and markers, consistent with the signing requirements for the state highway system, showing those special designations and, upon receiving donations from nonstate sources sufficient to cover those costs, to erect those plaques and markers; and be it further

*Resolved,* That the Secretary of the Senate transmit a copy of this resolution to the Director of Transportation.

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## RESOLUTION CHAPTER 86

Assembly Joint Resolution No. 17—Relative to foreign trucks in California.

[Filed with Secretary of State August 14, 1997.]

WHEREAS, A recent study by the U.S. Government Accounting Office (GAO) found that Mexican trucks entering the United States often fail to meet basic federal safety standards; and

WHEREAS, Investigators from the GAO found that Mexican trucks entering the United States may have serious safety violations, including broken suspension systems, substandard tires, inoperable brakes, overweight loads, and unsecured and hazardous cargo; and

WHEREAS, Mexico has no nationwide automated system for monitoring the safety history or violation records of Mexican companies and drivers, and it is therefore difficult for California law enforcement personnel to obtain essential safety data; and

WHEREAS, If trucks from Mexico are allowed unrestricted access to the state, verification of foreign insurance policies and access to the foreign judicial system will be very difficult when accidents occur, possibly resulting in the delay of settlements and payments to those involved; and

WHEREAS, Large quantities of illegal drugs are smuggled into California from foreign nations, including Mexico; and

WHEREAS, The federal government has chosen not to implement provisions of the North American Free Trade Agreement that called for unlimited access by Mexican trucks to the territory of the State of California; now, therefore, be it

*Resolved by the Assembly and Senate of the State of California, jointly,* That the Legislature memorializes the President and Congress of the United States to maintain the existing restrictions on trucks from Mexico and other foreign nations entering California and continue efforts to assure full compliance by the owners and drivers of those trucks with all highway safety, environmental, and drug enforcement laws; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

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## RESOLUTION CHAPTER 87

Senate Concurrent Resolution No. 13—Relative to professional basketball.

[Filed with Secretary of State August 14, 1997.]

WHEREAS, The purpose of the National Basketball Association (NBA) is, among other things, to protect the rights and advance the interests of professional basketball players; and

WHEREAS, Current pension provisions of the NBA allow post-1965 players vested pension rights after only three seasons, while pre-1965 players must have played five years in order to obtain vested pension rights; and

WHEREAS, Approximately 75 needy, post-World War II, pre-1965 pioneer professional basketball players are thus excluded from any pension rights under these provisions; and

WHEREAS, The pioneer players established the foundation for the enormous benefits enjoyed by today's players, in the National Basketball League, which merged with the Basketball Association of America in 1949 to form the NBA; and

WHEREAS, As a result of the efforts of those pioneer players, today's multimillionaires are assured of a prosperous pension in their advanced years; and

WHEREAS, By excluding those pioneer players from its pension plan, the NBA is disavowing its moral duty to care for the very players who furnished professional basketball the impetus for prosperity and durability; and

WHEREAS, Not only are those players denied pensions, but their intellectual property rights have been violated, and are violated, by the misappropriation of their names, photographs, and other likenesses for merchandise by the NBA without permission or full and proper compensation; and

WHEREAS, The so-called 50th anniversary of the NBA is a sham inasmuch as the association was not formed until 1949; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the surviving post-World War II, pre-1965 National Basketball League players with a minimum of three years of eligible service should be entitled to both pensions and proper compensation for their intellectual property rights; and be it further

*Resolved,* That the Secretary of the Senate transmit forthwith copies of this resolution to the Commissioner of the National Basketball Association and to the NBA Players' Association, with the request for the inclusion of those pre-1965 players with a minimum of three years of eligible service, in the current and future benefits of the basketball players' pension fund and for full compensation for the use of their names, photographs, and other likenesses.

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# RESOLUTION CHAPTER 88

Senate Concurrent Resolution No. 40—Relative to hepatitis A prevention.

[Filed with Secretary of State August 14, 1997.]

WHEREAS, Approximately 9,000 students in the Los Angeles School District may have been exposed to hepatitis A by eating contaminated strawberries; and

WHEREAS, This exposure to the disease places at risk not only the students, but all persons who come in contact with the students, including the students' family members, teachers, friends, and persons who work in the school cafeteria where the strawberries were served; and

WHEREAS, Had the students and cafeteria staff been vaccinated against hepatitis A there would have been no risk of possible illness; and

WHEREAS, Hepatitis A is a disease that is already prevalent in the Latino communities, historically infecting members of these communities at rates only slightly below the rate of infection, 50 per 100,000 persons, determined by the Centers for Disease Control (CDC) to be an epidemic; and

WHEREAS, Hepatitis A is approaching the epidemic stage, as defined by the CDC, within the entire County of Los Angeles; and

WHEREAS, Hepatitis A is spread by an infected person prior to the onset of recognizable symptoms, infects the liver, may be life-threatening, and is not treatable; and

WHEREAS, Hepatitis A is easily spread from person to person or via contaminated food; and

WHEREAS, Direct and indirect costs due to this disease total approximately $200 million annually in the United States; and

WHEREAS, The disease can be prevented by vaccination; and

WHEREAS, The State Department of Health Services and the Los Angeles Office of Public Health have no plans in place to vaccinate teachers, students, food handlers, or others who may be at risk of contracting hepatitis A; and

WHEREAS, The CDC has recommended that "widespread vaccination of appropriate susceptible populations can substantially lower disease incidence, eliminate transmission, and ultimately, eradicate hepatitis A virus infection"; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the State Department of Health Services is requested to develop a plan to vaccinate all food handlers within hepatitis A epidemic areas and report to the Legislature by January 1, 1998, concerning the feasibility and cost-effectiveness of implementing the plan; and be it further

*Resolved,* That the State Department of Health Services is requested to immediately encourage all food handlers in the state to be vaccinated against the hepatitis A; and be it further

*Resolved,* That the State Department of Health Services is requested to immediately begin a vaccination program in all Los Angeles schools to ensure that further exposure to contaminated food does not place children at risk of contracting hepatitis A.

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## RESOLUTION CHAPTER 89

Senate Concurrent Resolution No. 56—Relative to Joint Rule 51.

[Filed with Secretary of State August 14, 1997.]

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That Rule 51 of the Joint Rules of the Senate and Assembly for the 1997–98 Regular Session is amended to read:

### Legislative Calendar

51. (a) The Legislature shall observe the following calendar during the first year of the regular session:

(1) Organizational Recess—The Legislature shall meet on the first Monday in December following the general election to organize. Thereafter, each house shall be in recess from the time it determines until the first Monday in January, except when the first Monday is January 1 or January 1 is a Sunday, in which case, the following Wednesday.

(2) Easter Recess—The Legislature shall be in recess from the 10th day prior to Easter until the Monday after Easter.

(3) Summer Recess—The Legislature shall be in recess from July 18 until August 25. This recess shall not commence until the Budget Bill is enacted.

(4) Interim Study Recess—The Legislature shall be in recess from September 12 until the first Monday in January, except when the first Monday is January 1 or January 1 is a Sunday, in which case, the following Wednesday.

(b) The Legislature shall observe the following calendar for the remainder of the legislative session:

(1) Easter Recess—The Legislature shall be in recess from the 10th day prior to Easter until the Monday after Easter.

(2) Summer Recess—The Legislature shall be in recess from July 3 until August 3. This recess shall not commence until the Budget Bill is enacted.

(3) Final Recess—The Legislature shall be in recess on August 31 until adjournment sine die on November 30.

(c) Recesses shall be from the hour of adjournment on the day specified, to reconvene at the time designated by the respective houses.

(d) The recesses specified by this rule shall be designated as joint recesses.

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## RESOLUTION CHAPTER 90

Assembly Concurrent Resolution No. 43—Relative to state investments.

[Filed with Secretary of State August 19, 1997.]

WHEREAS, The entire world has been shocked by the revelations about gold and other valuable personal possessions that were taken from the victims of the Jewish Holocaust by Nazi Germany, placed in Swiss banks, and that remained hidden there from the survivors and the families of the victims for five decades; and

WHEREAS, Investigations have revealed cash deposits made in those banks by Jewish families that feared, and ultimately became the victims of the Holocaust, which are the rightful property of the Holocaust survivors and the families of the victims, but that remain undisclosed and unreturned to them; and

WHEREAS, Virtually all information regarding the sale or deposit of unknown billions of dollars of Nazi German assets to Swiss banking institutions, and data regarding the existence and status of the long dormant accounts of Holocaust victims and survivors has been discovered without the participation and assistance of the Swiss banking interests; and

WHEREAS, President Clinton and the leadership of the United States Congress have established a strong bipartisan approach to pressure the Swiss banking institutions to release bank records in an effort to determine the amount of money and other valuables taken from Holocaust victims and survivors, and to identify those living and the families of those who have died who are the legitimate claimants for those resources; and

WHEREAS, California has long been a leader in the effort to memorialize and remember the tragic events of the Holocaust in which six million Jews were murdered by the Nazi German dictatorship so that the horrors of this genocide will never be repeated again; and

WHEREAS, All Americans have a stake in ensuring that justice is done. Apartheid was ended in South Africa by Americans of all races fighting a battle together for what was and is right, regardless of race

or religion, and that battle was primarily spurred by California's decision to divest from South Africa; and

WHEREAS, It is appropriate for California to join other states in the effort to force the Swiss banking institutions to release information that will bring closure to another disturbing chapter in the history we know as the Holocaust, and justice to those who lost their wealth, great or small, to the actions of the Nazi Germans and the Swiss banks; and

WHEREAS, The Public Employees Retirement System, the State Treasurer, and other state entities may conduct financial transactions that involve members of the Swiss Bankers Association; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Legislature of the State of California encourages the Board of Administration of the Public Employees Retirement System, the State Treasurer, and the executive management of any state agency that is authorized to invest or transact financial business with private financial institutions that do business with Swiss banking interests to call upon the management of those interests to publicly release all information relative to the personal accounts of Jews that have remained dormant since World War II, and all information regarding financial transactions between the Nazi German government, financial institutions and Nazi governmental officials, and the members of the Swiss Bankers Association for the same period; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the Governor, the State Treasurer, and to the Board of Administration of the Public Employees Retirement System.

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## RESOLUTION CHAPTER 91

Assembly Concurrent Resolution No. 4—Relative to cigarette advertisement.

[Filed with Secretary of State September 2, 1997.]

WHEREAS, According to the Food and Drug Administration, every day nearly 3,000 young people start to smoke in this country, and every year one million children take up smoking even though it is illegal to sell cigarettes to them; and

WHEREAS, A recent study by the University of Michigan determined that smoking rates among 8th, 10th, and 12th graders have been increasing steadily over the last five years; and

WHEREAS, In 1993, the Centers for Disease Control and Prevention estimated that health care costs, nationwide, from smoking-related disease and death was $50 billion; and

WHEREAS, According to the California State Department of Health Services in 1992, 42,000 Californians die every year due to smoking and tobacco use; and

WHEREAS, According to a national study by the University of Michigan between 1991 and 1994, the percentage of 8th graders who smoked increased 34 percent nationwide; and

WHEREAS, Cigarette smoking among American teens rose again in 1995, according to the Centers for Disease Control and Prevention; and

WHEREAS, According to National Household Surveys on Drug Abuse in 1991, more than 70 percent of smokers begin the habit before 18 years of age with the average smoker beginning at 15 years of age; and

WHEREAS, According to the California State Department of Health Services, smoking is on the rise among those under 19 years of age both in California and nationally; and

WHEREAS, According to the Centers for Disease Control and Prevention, more than 5 million Americans under the age of 18 years who smoke today will eventually die prematurely and an estimated $200 billion in projected health care costs will result from tobacco-related illnesses; and

WHEREAS, According to a 1994 Surgeon General's report, of the 3,000 young people who start smoking every day, 1,000 of them will die as a result; and

WHEREAS, Six-year-old children are as familiar with the character "Joe Camel" as they are with the character "Mickey Mouse" (Paul M. Fischer et al., "Brand Logo Recognition by Children Aged 3 to 6 Years," Journal of the American Medical Association, 1991:266:3145-3148); and

WHEREAS, An October 1995 study in the Journal of the National Cancer Institute found 60 percent of adolescents who have never smoked could name a favorite cigarette advertisement, with the character "Joe Camel" cited most often; and

WHEREAS, A study in Health Psychology concluded that the sudden rise in teen smoking coincided with sizable cigarette promotions; and

WHEREAS, Camel-brand cigarettes' brand-share among the under-18-years-of-age market has risen from one-half of 1 percent before the Joe Camel advertising campaign to almost 33 percent now (Joseph R. DiFranza et al., "RJR Nabisco's Cartoon Camel Promotes Camel Cigarettes to Children," Journal of the American Medical Association, 1991:266:3154-3158); and

WHEREAS, Sales to the under-18-years-of-age market have been estimated to account for about one-quarter of all Camel-brand cigarette sales (Stuart Auerbach, "FTC Staff Takes Aim at 'Joe Camel': Reynolds Denies Ad Campaign Is Aimed at Enticing Teens to Smoke," WashPost, 8/12/93); and

WHEREAS, According to a 1993 study by the Centers for Disease Control and Prevention, after the character "Joe Camel" was introduced in 1988, adolescent interest skyrocketed, with more than 13 percent of 12- to 18-year-olds saying they preferred the brand; and

WHEREAS, Tobacco companies continue to market cigarette and tobacco products directly to our youth manipulating shamelessly deceptive techniques such as the use of the character "Joe Camel"; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Legislature concurs with the May 28, 1997, Federal Trade Commission decision to seek an order that would require R.J. Reynolds Tobacco Company to conduct 10 years of antismoking education for teenagers and require R.J. Reynolds to supply data regarding the consumption by teenagers of each of the company's cigarette brands; and be it further

*Resolved,* That the Legislature opposes the marketing or promotion of tobacco products to minors.

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## RESOLUTION CHAPTER 92

Senate Concurrent Resolution No. 17—Relative to human services.

[Filed with Secretary of State September 2, 1997.]

WHEREAS, The California Youth Connection, a statewide organization of youth in the foster care system, has written the "Foster Youth Bill of Rights," that addresses the rights and responsibilities of foster youth who must live in group homes and institutions, foster care, and court-ordered relative placements; and

WHEREAS, These rights and responsibilities are as follows:

(1) The right to be treated with respect.

(2) The right to adequate living conditions and a home-like environment.

(3) The right to adequate medical, dental, and psychiatric care.

(4) The right to fair treatment in administering rewards and punishments.

(5) The right to contact family members, social workers, attorneys, and other adult supporters.

(6) The right to education and community involvement.

(7) The right to work and develop job skills.

(8) The right to social contacts.

(9) The right to adequate clothing.

(10) The right to a reasonable allowance.

(11) The right to receive emancipation services through a formal independent living program provided by the State Department of Social Services.

(12) The responsibility for involvement in a full-time educational or job training program leading to a high school or general educational development certificate (GED).

(13) The responsibility to be actively involved in preparation for emancipation by any of the following:

(A) Working on an individual emancipation plan.

(B) Attending independent living program training.

(C) Participating in a transitional living program.

(14) The responsibility to open and maintain an emancipation savings account.

(15) The responsibility to respect the person and property of the other members of the family, the care providers, or residential staff with whom they reside.

(16) The responsibility to make contact at least every three months with either a placement worker, an independent living program staff person, or an emancipation assistant for the county that placed the foster youth.

(17) The responsibility to keep his or her care provider, social worker, and counselors informed about current needs or problems affecting the foster youth; and

WHEREAS, It is the goal of the Legislature that all youth upon leaving the child welfare and foster care systems have a means of support, a suitable place to live, necessary medical care, clothing, educational opportunities, a vocational plan, educational records, and medical records; and

WHEREAS, It is the intent of the Legislature that the state coordinate resources so that every foster child in long-term out-of-home placement over the age of 16 years shall have access to an independent living program and be provided with an individual emancipation plan; and

WHEREAS, It is the intent of the Legislature that the State Department of Social Services will ensure that the priorities for every independent living program provided at the local level pursuant to the independent living program established pursuant to the Federal Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99-272) shall be to assist emancipating foster youth with a place to live, a source of income adequate to maintain basic needs, and placement in a job, job training program, or program of higher education; and

WHEREAS, It is the intent of the Legislature that, to the degree independent living programs are available, the county department of social services will ensure that every foster youth 16 years of age or older who is in out-of-home placement under the supervision of the county department of social services or the county probation department is referred to an independent living program in the region or area of the foster youth's out-of-home placement; and

WHEREAS, The Legislature finds and declares that adequate job training and preparation for emancipation are essential to the

personal development of youth in the foster care system and to the productivity of emancipated foster youth; and

WHEREAS, It is the intent of the Legislature that state, county, and local governments be encouraged to recruit and employ qualified foster children over the age of 16 years and to work with other local agencies and private employers to arrange job opportunities for foster children; and

WHEREAS, It is the further intent of the Legislature that foster youth receive priority in all federally funded and state-funded youth employment programs intended for at-risk youth; and

WHEREAS, Learning the skills of self-control, responsibility, and problem solving are important to the development of foster children and foster parents; and

WHEREAS, Social services personnel and community care facilities play an important role in helping foster children learn these skills; and

WHEREAS, It is the intent of the Legislature that foster parents and community care facilities assist foster children in learning emancipation skills and assist foster youth in preparation for emancipation; and

WHEREAS, It is the intent of the Legislature that emancipation alone should not render foster youth homeless; and

WHEREAS, The Legislature hereby finds and declares that policy decisions made by the Legislature, the State Department of Social Services, and counties affect the lives of children in out-of-home care; and

WHEREAS, Foster children should have a voice in the policymaking process; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the State Department of Social Services is requested to seek the input of foster youth across the state, including those from the California Youth Connection and independent living programs, to advise the department on approaches to improving the foster care system including, but not limited to, the following areas:

(1) Family visitation.

(2) Employment opportunities and job training.

(3) Clothing and personal allowances.

(4) Discipline in group homes.

(5) Creating a home-like environment in group homes.

(6) Access to extracurricular activities for foster children.

(7) Emancipation services and support.

(8) Additional methods of social services that ensure assistance to wards or dependents of the juvenile court who are preparing to emancipate pursuant to Part 6 (commencing with Section 7000) of Division 11 of the Family Code, with meeting their housing, medical, vocational, and income needs after emancipation or termination of foster care eligibility; and be it further

*Resolved,* That the State Department of Social Services, in consultation with county independent living programs, is encouraged to identify methods of making transitional housing services available to an increased number of foster youth; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the Director of Social Services.

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## RESOLUTION CHAPTER 93

Senate Joint Resolution No. 6—Relative to Filipino veterans' benefits.

[Filed with Secretary of State September 2, 1997.]

WHEREAS, The Philippine Islands became a United States possession in 1898 when they were ceded from Spain following the Spanish-American War and remained a possession of the United States until 1946; and

WHEREAS, In 1934, Congress passed Public Law 73-127, the Philippine Independence Act, that set a 10-year timetable for the eventual independence of the Philippines and in the interim established a Commonwealth of the Philippines with certain powers over its internal affairs; and

WHEREAS, The granting of full independence ultimately was delayed for two years until 1946 because of the Japanese occupation of the islands from 1942 to 1945; and

WHEREAS, During the interval between 1934 and the final independence in 1946, the United States retained certain sovereign powers over the Philippines, including the right, upon order of the President of the United States, to call into the service of the United States Armed Forces all military forces organized by the Commonwealth government; and

WHEREAS, President Roosevelt invoked this authority by executive order of July 26, 1941, bringing the Philippine Commonwealth Army into the service of the United States Armed Forces of the Far East under the command of Lt. General Douglas MacArthur; and

WHEREAS, Two hundred thousand Filipino soldiers, driven by a sense of honor and dignity, battled under United States Command after 1941 to preserve our liberty; and

WHEREAS, There are four groups of Filipino nationals who are entitled to all or some of the benefits to which United States veterans are entitled. These are:

(1) Filipinos who served in the regular components of the United States Armed Forces.

(2) Regular Philippine Scouts, called "Old Scouts," who enlisted in Filipino-manned units of the United States Army prior to October 6, 1945.

(3) Special Philippine Scouts, called "New Scouts," who enlisted in the United States Armed Forces between October 6, 1945, and June 30, 1947, primarily to perform occupation duty in the Pacific following World War II.

(4) Members of the Philippine Commonwealth Army who on July 26, 1941, were called into the service of the United States Armed Forces. This group includes organized guerrilla resistance units that were recognized by the United States Army; and

WHEREAS, The first two groups, Filipinos who served in the regular components of the United States Army and Old Scouts, are considered United States veterans and are generally entitled to the full range of United States veterans' benefits; and

WHEREAS, The other two groups, New Scouts and members of the Commonwealth Army, are eligible for certain benefits, and some of these are paid at lower than full rates. United States veterans' medical benefits for the four groups of Filipino veterans vary depending upon whether the person resides in the United States or the Philippines; and

WHEREAS, The Old Scouts were created in 1901 pursuant to the Act of February 2, 1901, that authorized the President of the United States "to enlist natives [of the Philippines] ... for service in the Army, to be organized as scouts ... or as troops or companies, as authorized by this Act, for the regular Army"; and

WHEREAS, Prior to World War II, these troops assisted in the maintenance of domestic order in the Philippines and served as a combat ready force to defend the islands against foreign invasion; and

WHEREAS, During the war, they participated in the defense of and retaking of the islands from Japanese occupation. The eligibility of Old Scouts for benefits based on military service in the United States Armed Forces, including veterans' benefits, has long been established; and

WHEREAS, The federal Department of Veterans Affairs operates a comprehensive program of veterans' benefits in the Republic of the Philippines, including the operation of a federal Department of Veterans Affairs office in Manila; and

WHEREAS, The federal Department of Veterans Affairs does not operate a program of this type in any other country; and

WHEREAS, The program in the Philippines evolved because the Philippines were a United States possession during the period 1898–1946, and many Filipinos have served in the United States Armed Forces, and because the preindependence Commonwealth Army of the Philippines was called into the service of the United States Armed Forces during World War II (1941–1945); and

WHEREAS, Our nation, however, has failed to meet the promises made to those Filipino soldiers who fought as American soldiers during World War II; and

WHEREAS, Many Filipino veterans have been discriminated against by the classification of their service as not being service rendered in the United States Armed Forces for purposes of benefits from the federal Department of Veterans' Affairs; and

WHEREAS, Filipinos gallantly served at Bataan and Corregidor, giving their toil, blood, and lives so as to provide the United States valuable time to rearm materiel and men to launch the counteroffensive in the Pacific war; and

WHEREAS, All other nationals, even foreigners, who served in the United States Armed Forces have been recognized and granted full rights and benefits, but the Filipinos who actually were American nationals at that time were and are still denied recognition and singled out for exclusion, and this treatment is unfair and discriminatory; and

WHEREAS, On March 6, 1997, House Resolution No. 836, the Filipino Veterans Equity Act, was introduced in the United States House of Representatives, to deem service in the organized military forces of the government of the Commonwealth of the Philippines and the Philippine Scouts during World War II to be active service for the purpose of benefits under programs administered by the Secretary of Veteran Affairs; and

WHEREAS, The proposed legislation would bring relief to the estimated remaining 60,000 to 70,000 Filipino veterans (out of the initial 175,000 to 200,000 troops) who risked their lives during World War II, surviving the occupation of the Philippine Islands and the infamous Bataan Death March, and who, now in their mid-60's to mid-90's, have been battling for years to obtain the benefits of other veterans of that war; and

WHEREAS, On October 20, 1996, President Clinton issued a proclamation honoring the nearly 100,000 Filipino veterans of World War II, soldiers of the Philippine Commonwealth Army, who fought as a component of the United States Forces alongside Allied Forces for four long years to defend and reclaim the Philippine Islands, and thousands more who joined the United States Armed Forces after the war; now, therefore, be it

*Resolved by the Senate and Assembly of the State of California, jointly,* That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to take action necessary to honor our country's moral obligation to provide Filipino veterans with the military benefits that they deserve, including, but not limited to, holding related hearings, and acting favorably on legislation pertaining to granting full veterans' benefits to Filipino veterans of the United States Armed Forces; and be it further

*Resolved,* That the Secretary of the Senate transmit a copy of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

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## RESOLUTION CHAPTER 94

Assembly Concurrent Resolution No. 2—Relative to the California Veterans' Cemetery at Yountville.

[Filed with Secretary of State September 4, 1997.]

WHEREAS, It is estimated that 3.3 million veterans (10 percent of the nation's veterans) live in the State of California; and

WHEREAS, Providing adequate care of our veterans should be the concern of all Americans; and

WHEREAS, The California Department of Veterans Affairs provides services to California veterans and their dependents, including the operation of the California Veterans' Home in Yountville, that provides medical care, rehabilitation services, and residential services to more than 1,125 veterans; and

WHEREAS, The purpose of the Veterans' Home has been to provide a community of services for ill and disabled California veterans that will improve overall health, reduce the incidence and severity of disabilities, and increase social interaction in an environment that promotes self-reliance and self-worth; and

WHEREAS, The Veterans' Home of California was conceived in 1877 by Lincoln Post No. 1, of the Grand Army of the Republic, in San Francisco; and

WHEREAS, Four years later, the Veterans' Home Association was incorporated under GAR auspices and for $17,500 purchased the property consisting of 910 acres in the town of Yountville in Napa County, on which the home and California Veterans' Cemetery is now situated; and

WHEREAS, A headquarters building was erected in 1883 and on April 1, 1884, the Veterans' Home and cemetery was formally opened; and

WHEREAS, By 1897, the Yountville Home had grown to such proportions that the Veterans' Home Association decided that the home could be operated more efficiently by the State of California, and deeded the entire property as a gift; and

WHEREAS, The Veterans' Home Cemetery is located on 10 acres of oak-covered rolling hills on the northwest corner of the Yountville Veterans' Home and includes gravesites from the United States Civil

War, Indian War, Mexican War, Spanish-American War, World War I, and World War II; and

WHEREAS, According to figures provided in 1996 by the California Department of Veterans Affairs, American participation and casualties from these wars were estimated as follows: Mexican War (1846–48) 79,000 participants, 13,000 deaths in service; Indian Wars (1817–98) 106,000 participants, 1,000 deaths in service; U.S. Civil War (1861–65) 2,213,000 Union participants, 364,000 Union deaths in service, 1,000,000 Confederate participants, 134,000 Confederate deaths in service; Spanish-American War (1898–1902) 392,000 participants, 11,000 deaths in service; World War I (1917–18) (4,744,000) participants, 116,000 deaths in service; and World War II (1940–45) 16,535,000 participants, 406,000 deaths in service; and

WHEREAS, The original cemetery site was abandoned in 1893 and relocated because it had been located in a depression where the graves would fill with water during the rainy season; and

WHEREAS, First to be buried in the present site was John C. Wood, one of the first 14 veterans to enter the home when it opened in 1884; and

WHEREAS, Among notable veterans buried at Yountville is Kit Carson, thought to be the son of the famous frontier pathfinder Kit Carson; and Leah McKenzie, possibly the only woman buried at the Veterans' Cemetery, and Lt. Col. James Jerome Lyon, considered the "Father of the Veterans' Home"; and

WHEREAS, Among the distinguished veterans buried are three Medal of Honor recipients: Joseph Leonard (U.S. Army), John Moriarty (U.S. Cavalry), and Julius Strickoffer (U.S. Cavalry); two from the Indian Wars in which 428 Medals of Honor were awarded, and one from the Philippine-Samoa Insurrection (1899–1913) in which 91 Medals of Honor were awarded; and

WHEREAS, The Medal of Honor, established by Joint Resolution of Congress, July 12, 1862, is the highest military award for bravery that can be given to any individual in the United States. It is awarded in the name of Congress to a person who, while a member of the armed forces, distinguishes himself or herself conspicuously by gallantry and intrepidity at the risk of his or her own life above and beyond the call of duty while engaged in an action against any enemy of the United States; while engaged in military operations involving conflict with an opposing foreign force; or while serving with friendly foreign forces engaged in an armed conflict against an opposing armed force in which the United States is not a belligerent party; and

WHEREAS, Burial benefits are provided in any Veterans Affairs national cemetery with available grave space to any deceased veteran who was discharged under conditions other than dishonorable; and

WHEREAS, A government headstone or marker is furnished for any deceased veteran who was similarly discharged and is interred in a national, state veterans', or private cemetery. Veterans Affairs

also will furnish markers to veterans' eligible dependents interred in a national or state veterans' cemetery; and

WHEREAS, The Veterans' Home Cemetery in Yountville is maintained by the Grounds Maintenance Department of the Veterans' Home, and includes one full-time groundskeeper support personnel who works under the general direction of the supervising groundskeeper; as well as various volunteers, and occasionally convicts or persons under court order doing community service; and

WHEREAS, According to the California Department of Veterans Affairs, current fiscal constraints do not allow for normal maintenance operations at the California Veterans' Cemetery, and that cemetery maintenance is currently being accomplished by volunteer labor and staff overtime costing $2,000 annually; and

WHEREAS, The maintenance and overall care of the cemetery grounds since its closure in 1953 was reportedly appropriately provided for, however, recent years have found a troubling decline in general maintenance and a deterioration of individual gravesites; and

WHEREAS, There is a need to focus the California Department of Veterans Affairs commitment to the upkeep and appropriate care of the cemetery, as mandated by law; and

WHEREAS, The lack of repair of the cemetery sprinkler system, including, but not limited to, broken pipes, has resulted in the deterioration of the grounds landscaping; and

WHEREAS, The perimeter fence requires repairs or replacement; and

WHEREAS, The deterioration of individual grave headstones has been reported with damaged headstones needing replacement and some headstones leaning, tipped over, or covered with moss, large weeds, and occasionally fallen trees; and

WHEREAS, The asphalt service roads are in poor condition, and require widening and resurfacing; and

WHEREAS, A surface parking area should be provided for visitors of the cemetery; and

WHEREAS, The California Veterans' Cemetery is under the management and control of the California Department of Veteran Affairs and, is subject to the policies adopted by the California Veterans Board and the Secretary of Veterans Affairs, and is managed by the Administrator of the Veterans' Home of California, Yountville; and

WHEREAS, The veterans' cemeteries are established or organized under the authority of the federal and state government, and contain known graves of former United States soldiers, sailors, or marines who were honorably discharged from the service, therefore it is the responsibility and obligation of the Administrator, Veterans' Home of California, who manages the cemetery, to keep the graves properly marked and identified, free from weeds and rubbish, in

decent order and repair, and free from defacement or injury; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Legislature of the State of California respectfully memorializes the Secretary of Veterans Affairs and, the Administrator of the Veterans' Home of California, Yountville, to take every action necessary to ensure that satisfactory remedial repairs are made in accordance with the proper maintenance and upkeep of the cemetery ground, as well as the upkeep, repair, and beautification of the graves and grave headstones; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit a copy of this resolution to the author for appropriate distribution.

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## RESOLUTION CHAPTER 95

Senate Concurrent Resolution No. 20—Relative to Domestic Violence Awareness Month.

[Filed with Secretary of State September 4, 1997.]

WHEREAS, Home should be a place of warmth, unconditional love, tranquility, and security; however, for many Americans, home is tainted with violence and fear; and

WHEREAS, Domestic violence is more than the occasional family dispute; and

WHEREAS, According to the United States Department of Health and Human Services, domestic violence is the single largest cause of injury to American women, affecting 6,000,000 women of all racial, cultural, and economic backgrounds; and

WHEREAS, According to data published in 1993 by the Commonwealth Fund and a 1994 survey report by the United States Department of Justice, in the United States a woman is battered every 15 seconds; 40 percent of female homicide victims in 1991 were killed by their husbands or boyfriends; and

WHEREAS, According to the United States Department of Labor, 1,000,000 people are assaulted and injured every year as a result of workplace violence, 1,000 people are killed every year due to workplace violence, and 20 percent of battered women lose their jobs due to harassment at work by abusive husbands or boyfriends; and

WHEREAS, More than one-half of the number of women in need of shelter from an abusive environment may be turned away from a shelter due to lack of space; and

WHEREAS, Women are not the only targets of domestic violence; young children, elderly persons, and men are also victims in their own homes; and

WHEREAS, Emotional scars are often permanent; and

WHEREAS, A coalition of organizations has emerged to confront this crisis directly. Law enforcement agencies, domestic violence hotlines, battered women and children's shelters, health care providers, churches, and the volunteers that serve those entities are helping the effort to end domestic violence; and

WHEREAS, It is important to recognize the compassion and dedication of the individuals involved in that effort, applaud their commitment, and increase public understanding of this significant problem; and

WHEREAS, The first Day of Unity was celebrated in October 1981 and was sponsored by the National Coalition Against Domestic Violence for the purpose of uniting battered women's advocates across the nation in an effort to end domestic violence; and

WHEREAS, That one day has grown into a month of activities at all levels of government, aimed at creating awareness about the problem and presenting solutions; and

WHEREAS, The first Domestic Violence Awareness Month was proclaimed in October 1987; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the Legislature hereby proclaims the month of October 1997 as Domestic Violence Awareness Month; and be it further

*Resolved,* That the Secretary of the Senate transmit a copy of this resolution to the President of the United States, the Governor of the State of California, the Director of the United States Department of Health and Human Services, and to each Senator and Representative from California in the Congress of the United States.

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## RESOLUTION CHAPTER 96

Senate Concurrent Resolution No. 27—Relative to residential facilities.

[Filed with Secretary of State September 4, 1997.]

WHEREAS, The licensure of residential care facilities is the responsibility of the State of California; and

WHEREAS, A "residential facility" is defined as any family home, group care facility, or similar facility for 24-hour nonmedical care of a person in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual; and

WHEREAS, It is recognized that these facilities play an integral role in the integration of persons with certain needs into the mainstream of residential living; and

WHEREAS, It is, however, "the policy of the state to prevent overconcentrations of residential care facilities that impair the integrity of residential neighborhoods"; and

WHEREAS, Local governments report an increasing number of complaints from citizens and neighborhood groups regarding the dispersal of these facilities; and

WHEREAS, Social service group proponents point out that funding for residential care has been inadequate which has tended to cause residential care facilities in many instances to cluster together in generally more affordable areas; and

WHEREAS, The overconcentration of residential care facilities can adversely affect neighborhoods and be detrimental to the clients; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That it is the intent of the Legislature that a task force consisting of representatives from local government and social service groups shall be established to analyze the issues related to funding, dispersal, and oversight of residential care facilities; and be it further

*Resolved,* That the Care Facilities Task Force is hereby created. The Legislative Analyst shall be responsible for the initial organization of the task force pursuant to this resolution. The task force shall have the following duties:

(1) To analyze and review issues related to the integration and dispersal of residential care facilities licensed by the state, serving those populations identified by the resolution, and those not currently licensed by the state.

(2) To examine current state licensing responsibilities, including, but not limited to, the adequacy of the agency resources to effectively execute its enforcement duties.

(3) To examine the responsibilities of local governments in the oversight of residential care facilities.

(4) To make recommendations regarding state regulation of residential care facilities based upon findings pursuant to paragraphs (1), (2), and (3). In making its recommendations, the task force shall consider the requirements of the Fair Housing Amendments Act of 1988 (42 U.S.C. Sec. 3600 et seq.); and be it further

*Resolved,* That the task force shall be composed of 16 members as follows:

(1) Eight members from local government. The League of California Cities and California State Association of Counties shall select four city representatives and four county representatives.

(2) Eight members from social service groups. In consultation with the Legislature, the Legislative Analyst shall contact social service groups and organizations. The Legislative Analyst shall request and ensure that the social service groups and organizations shall select at least one task force member to represent each of the six categories of persons:

(A) Persons with developmental disabilities.
(B) Persons with mental disabilities.
(C) Persons with drug or alcohol addiction.
(D) Foster children, including dependents and wards of the court.
(E) Persons affected by fair housing issues.
(F) Persons in halfway houses under the jurisdiction of the Department of Corrections.
(G) Two additional members from any of the above groups.

(3) Representatives from the following entities shall be invited to be advisory members of the task force:
(A) State Department of Social Services.
(B) State Department of Alcohol and Drug Programs.
(C) State Department of Developmental Services.
(D) State Department of Mental Health.
(E) Department of Corrections.
(F) California Mental Health Association.
(G) Chief Probation Officers of California.
(H) Senate Committee on Health and Human Services.
(I) Assembly Committee on Human Services.
(J) Legislative Analyst; and be it further

*Resolved,* That the Legislative Analyst shall schedule and make the necessary arrangements for the first meeting of the Care Facilities Task Force, that the first meeting shall be scheduled no later than one month after this resolution is chaptered by the Secretary of State, that at the first meeting of the task force, the first order of business shall be the election of cochairpersons, and that one chairperson shall be elected by and from the local government representatives and one chairperson shall be elected by and from representatives of the social service groups and organizations; and be it further

*Resolved,* That all members of the task force shall serve on a volunteer basis, that to the extent possible, meetings of the task force shall be held in Sacramento, and that members of the task force shall not receive travel reimbursement; and be it further

*Resolved,* That the task force shall submit a report of its findings and recommendations to the Governor and the Legislature on or before January 31, 1998.

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## RESOLUTION CHAPTER 97

Senate Concurrent Resolution No. 42—Relative to implementing the Agreement on Mutual Cooperation.

[Filed with Secretary of State September 4, 1997.]

WHEREAS, In April 1991 an “Agreement on Mutual Cooperation” (officially known as the “Agreement of Friendship and Partnership

between the State of California, USA, and the Russian Soviet Federative Socialist Republic, USSR”) was signed between the Russian Federation (at that time a constituent republic of the former Soviet Union) and the State of California; and

WHEREAS, Six years after the signing of the “Agreement on Mutual Cooperation” it has still not been put into effect by the State of California; and

WHEREAS, Due to the changes in the former USSR, the Russian Federation is now an independent state with its own 89 constituent regions and republics; and

WHEREAS, By signing the “Agreement on Mutual Cooperation” in 1991, the State of California and the Russian Federation recognized the importance of cooperation between the diverse people of the two countries and desire to improve mutual economic, commercial, scientific, technological, and cultural cooperation, and other areas of mutual interest; and

WHEREAS, The “Agreement on Mutual Cooperation” commits the State of California and the Russian Federation to encourage agreements for the sale of goods and services, cooperation in industrial and agricultural production, the creation of joint ventures, the establishment of scientific, technological, and education exchanges, tours of artistic groups and performers, art exhibitions, and cooperation in the area of tourism; and

WHEREAS, By signing the “Agreement on Mutual Cooperation” the State of California and the Russian Federation agreed to pay special attention to developing cooperation and exchanges in the area of environmental protection (land, water, and air), food and product safety, recycling of waste, energy conservation, safe energy development, and other areas of mutual interest; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the Senate and Assembly of the State of California request that the “Agreement on Mutual Cooperation” (officially known as the “Agreement of Friendship and Partnership between the State of California, USA, and the Russian Soviet Federative Socialist Republic, USSR”) be put into full effect without further delay after first amending it in accordance with the changes in the status of the Russian Federation by reorienting it to foster both friendship and cooperation between California and one of the regions of the Russian Federation, such as the Khabarovsky Territory (located in the Russian Far East), or one of the regional associations of the Russian Federation; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the Governor of the State of California, the Embassy of the Russian Federation in Washington, D.C., and the Consulate General of the Russian Federation in San Francisco, California.

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## RESOLUTION CHAPTER 98

Senate Joint Resolution No. 25—Relative to the Job Creation and Infrastructure Restoration Act and the Jobs 2000 Act of 1997.

[Filed with Secretary of State September 4, 1997.]

WHEREAS, On March 5, 1997, Congressman Matthew Martinez of California introduced House Resolution 950, the “Job Creation and Infrastructure Restoration Act of 1997,” which includes the “Jobs 2000 Act of 1997,” to provide $50 billion per year for emergency public works jobs over a five-year period; and

WHEREAS, The funds will include emergency financial grants to local governments for the construction, repair, and renovation of public works projects including schools, housing, hospitals, parks, bridges, highways, environmental improvement, and other similar projects; and

WHEREAS, The act contains strong labor provisions, including Davis-Bacon prevailing wage requirements, which ensure living wage jobs, equal opportunity employment, provisions for job safety and a healthful work environment, and union apprenticeship for young workers, with project labor agreements with building trades unions; and

WHEREAS, The destruction of the welfare safety net has created an urgent survival need for a vast number of jobs at a living wage in numerous states across the country, including California, where close to half a million families are in danger of losing welfare benefits with an insufficient number of good paying jobs to meet the demand; and

WHEREAS, The new federal welfare legislation has resulted in workfare, and other low-wage, dead-end job solutions that are being used to replace union workers in the private and public sectors with less skilled workers who are particularly threatened by the loss of protections that were contained in the former welfare law; and

WHEREAS, This situation will decrease the wages and worsen the working conditions of all workers, when what should be created are jobs that pay workers enough to raise a family and lift them out of poverty, as is provided for in the Job Creation and Infrastructure Restoration Act and the Jobs 2000 Act of 1997, which will provide public works jobs at a living wage, on an emergency basis to hundreds of thousands of workers, with priority being given to welfare recipients, the long-term unemployed, victims of plant and base closures, youths, and unemployed building trades workers; and

WHEREAS, The City and County of Los Angeles are in significant need of substantial funds for infrastructure repair and restoration, along with jobs, which the Job Creation and Infrastructure Restoration Act and the Jobs 2000 Act of 1997 would greatly alleviate, with public works and community improvement projects prioritized

for communities that suffer the highest levels of unemployment; now, therefore, be it

*Resolved by the Senate and Assembly of the State of California, jointly,* That the Legislature affirms its endorsement of the federal Job Creation and Infrastructure Restoration Act and the Jobs 2000 Act of 1997, and urges the United States Congress to pass the act at once, to meet the urgent demands of the welfare, job, and infrastructure crises across the nation; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

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## RESOLUTION CHAPTER 99

Senate Joint Resolution No. 26—Relative to Aircraft Repair Station Safety Act of 1997.

[Filed with Secretary of State September 4, 1997.]

WHEREAS, On January 9, 1997, House Resolution No. 145 (H.R. 145) was introduced in Congress; and

WHEREAS, H.R. 145 proposes to enact the Aircraft Repair Station Safety Act of 1997; and

WHEREAS, The Aircraft Repair Station Safety Act of 1997 would provide for more stringent standards for certification of foreign repair stations by the Federal Aircraft Administration and would revoke the certification of any repair facility that knowingly uses defective parts; and

WHEREAS, The Aircraft Repair Station Safety Act of 1997 would require all maintenance facilities, whether domestic or foreign, to adhere to the same safety and operating procedures; now, therefore, be it

*Resolved by the Senate and Assembly of the State of California, jointly,* That the California Legislature memorializes the Congress of the United States to enact the Aircraft Repair Station Safety Act of 1997; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States.

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# RESOLUTION CHAPTER 100

Assembly Concurrent Resolution No. 32—Relative to arthropods.

[Filed with Secretary of State September 9, 1997.]

WHEREAS, An outstanding reference collection of arthropods is stored in a modern compact environment at the Plant Pest Diagnostics Center of the Division of Plant Industry of the Department of Food and Agriculture; and

WHEREAS, The collection includes about 1.5 million specimens representing insect families worldwide and representing the genera of North America and contains representative species of California. While not the largest arthropod collection, this collection is one of the highest in percentage of properly identified specimens in the United States; and

WHEREAS, This collection provides for accurate and timely identification of arthropods by a staff of world-class quality scientists capable of identifying all submitted insects, mites, and other arthropods that may be a threat to agriculture. The well-planned operation to rapidly identify submitted insects, mites, and other arthropods is necessary due to the rapidly increasing movement of people and produce into the state by many transportation modes that may introduce foreign arthropods that could cause the agriculture industry millions of dollars in crop loss, treatment costs, loss of some domestic and foreign markets through quarantines, and additional burdens on our environment from use of chemical insecticides in attempts to control or eradicate the pests; and

WHEREAS, Nearly one-third of all jobs in California are related to agriculture; and

WHEREAS, The scientists at the diagnostics center routinely use their professional background, available literature, consultations with professional peers, and, of utmost importance to the timely and accurate identification process, the utilization of the reference collection; and

WHEREAS, The use of this collection as a valuable tool for scientific use began in 1927 and includes a repository for all associated data on hosts, locations, dates of collection, collectors, and biological information, provides representative voucher specimens from control and eradication projects, as environmental indicators, from unique situations for historical evidence, distribution, and range information, and contains type specimens representing unique species; and

WHEREAS, The diagnostics center is charged with performing the multitude of services associated with identification of arthropods for California's most important industry, agriculture. The diagnostics center identifications serve county agriculture commissioners,

University of California Extension services and researchers, and the public at large; and

WHEREAS, In order to ensure that the collection in Sacramento will always be available to scientists, it is imperative that this collection is managed properly and secured financially for the future. It is an effective step in this preservation and management that the diagnostics center's collection be officially recognized as the official state collection; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Plant Pest Diagnostics Center of the Division of Plant Industry of the Department of Food and Agriculture is hereby officially designated as the official repository for the collection of arthropods in the state and shall be known as the State Collection of Arthropods; and be it further

*Resolved,* That the Department of Food and Agriculture is requested to determine the cost of appropriate plaques and markers, consistent with the building standards for state building, showing the special designation and, upon receiving donations from nonstate sources covering that cost, to erect those plaques and markers; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit a copy of this resolution to the Secretary of Food and Agriculture.

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## RESOLUTION CHAPTER 101

Assembly Concurrent Resolution No. 63—Relative to peace officers.

[Filed with Secretary of State September 9, 1997.]

WHEREAS, Reserve peace officers comprise a significant complement to full-time peace officers who provide services to our communities; and

WHEREAS, Three hundred thirty-eight public agencies in this state currently employ nearly 10,000 reserve officers, or about 15 percent of the total 70,000 municipal and county law enforcement personnel; and

WHEREAS, Reserve peace officers have undergone physical and mental testing that includes attendance at an academy for seven months on nights and weekends and hundreds of hours of field training with full-time deputies and experienced part-time deputies; and

WHEREAS, In 1996, reserve peace officers donated over $100,000,000 of their services to their communities throughout the State of California; and

WHEREAS, Reserve peace officers are citizens who care enough about their communities to put their time, money, and even their lives on the line without receiving compensation or reimbursement; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That California Legislature encourages all Californians to join with the Legislature in commending reserve peace officers for their service, dedication, and commitment to the citizens of California; and be it further

*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

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## RESOLUTION CHAPTER 102

Senate Concurrent Resolution No. 3—Relative to the California Law Revision Commission.

[Filed with Secretary of State September 12, 1997.]

WHEREAS, The California Law Revision Commission is authorized to study only topics set forth in the calendar contained in its report to the Governor and the Legislature that are thereafter approved for study by concurrent resolution of the Legislature, and topics that have been referred to the commission for study by concurrent resolution of the Legislature; and

WHEREAS, The commission, in its annual report covering its activities for 1996, recommends continued study of 21 topics, all of which the Legislature has previously authorized or directed the commission to study; and

WHEREAS, The commission, in its annual report covering its activities for 1996, recommends the deletion from its study list of three topics that the Legislature has previously authorized or directed the commission to study; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the Legislature approves for continued study by the California Law Revision Commission the topics listed below, all of which the Legislature has previously authorized or directed the commission to study:

(1) Whether the law should be revised that relates to creditors' remedies, including, but not limited to, attachment, garnishment, execution, repossession of property (including the claim and delivery statute, self-help repossession of property, and the Commercial Code provisions on repossession of property), civil arrest, confession of judgment procedures, default judgment procedures, enforcement of judgments, the right of redemption, procedures under private power

of sale in a trust deed or mortgage, possessory and nonpossessory liens, insolvency, and related matters;

(2) Whether the California Probate Code should be revised, including, but not limited to, the issue of whether California should adopt, in whole or in part, the Uniform Probate Code;

(3) Whether the law should be revised that relates to real and personal property, including, but not limited to, a marketable title act, covenants, servitudes, conditions, and restrictions on land use or relating to land, possibilities of reverter, powers of termination, Section 1464 of the Civil Code, escheat of property and the disposition of unclaimed or abandoned property, eminent domain, quiet title actions, abandonment or vacation of public streets and highways, partition, rights and duties attendant upon assignment, subletting, termination, or abandonment of a lease, powers of appointment, and related matters;

(4) Whether the law should be revised that relates to family law, including, but not limited to, community property, the adjudication of child and family civil proceedings, child custody, adoption, guardianship, freedom from parental custody and control, and related matters, including other subjects covered by the Family Code;

(5) Whether the law relating to class actions should be revised;

(6) Whether the law relating to offers of compromise should be revised;

(7) Whether the law relating to discovery in civil cases should be revised;

(8) Whether a summary procedure should be provided by which property owners can remove doubtful or invalid liens from their property, including a provision for the payment of attorneys' fees to the prevailing party;

(9) Whether the acts governing special assessments for public improvement should be simplified and unified;

(10) Whether the law relating to the rights and disabilities of minors and incompetent persons should be revised;

(11) Whether the Evidence Code should be revised;

(12) Whether the law relating to arbitration should be revised;

(13) Whether there should be changes to administrative law;

(14) Whether the law relating to the payment and the shifting of attorney's fees between litigants should be revised;

(15) Whether the Uniform Unincorporated Nonprofit Association Act, or parts of that uniform act, and related provisions should be adopted in California;

(16) Whether the law governing unfair competition litigation under Chapter 5 (commencing with Section 17200) of Part 2 of Division 7 of the Business and Professions Code should be revised to clarify the scope of the chapter and to resolve procedural problems in litigation under the chapter, including the res judicata and

collateral estoppel effect on the public of a judgment between the parties to the litigation, and related matters;

(17) Whether the requirement of paragraph (2) of subdivision (b) of Section 800 of the Corporations Code that the plaintiff in a shareholder's derivative action must allege the plaintiff's efforts to secure board action or the reasons for not making the effort, the standard under Section 309 of the Corporations Code for protection of a director from liability for a good faith business judgment, and related provisions, should be revised;

(18) Recommendations to be reported pertaining to statutory changes that may be necessitated by court unification;

(19) Whether Section 351 of the Code of Civil Procedure, relating to tolling statutes of limitations while the defendant is out of state, and related matters, should be revised;

(20) Whether the California law of contracts should be revised, including the law relating to the effect of electronic communications on the law governing contract formation, the statute of frauds, the parol evidence rule, and related matters;

(21) Whether the laws within various codes relating to environmental quality and natural resources should be reorganized in order to simplify and consolidate relevant statutes, resolve inconsistencies between the statutes, and eliminate obsolete and unnecessarily duplicative statutes; and be it further

*Resolved,* That the Legislature approves for deletion from the calendar of the California Law Revision Commission the topics listed below, which the Legislature has previously authorized or directed the commission to study:

(1) Whether the law relating to the award of prejudgment interest in civil actions and related matters should be revised.

(2) Whether the law on injunctions and related matters should be revised.

(3) Whether the decisional, statutory, and constitutional rules should be revised that govern the liability of public entities for inverse condemnation, including, but not limited to, liability for damages resulting from flood control projects, and whether the law relating to the liability of private persons under similar circumstances should be revised; and be it further

*Resolved,* That the Secretary of the Senate transmit a copy of this resolution to the California Law Revision Commission.

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## RESOLUTION CHAPTER 103

Senate Concurrent Resolution No. 23—Relative to minority enrollment in medical schools.

[Filed with Secretary of State September 12, 1997.]

WHEREAS, Recent data indicates that California's medical schools have experienced a 19-percent reduction in underrepresented minority enrollment between 1995 and 1996; and

WHEREAS, This precipitous decline is inconsistent with both the spiraling growth of the state's underrepresented population, as well as with nationwide statistics that reveal a decline in minority enrollment in medical schools of only 5 percent over the same period; and

WHEREAS, According to a May 1996 report in the New England Journal of Medicine, recent studies reveal that physicians who are members of minority groups serve a critical role in serving California's minority populations due to their proclivity for electing to practice in communities with high proportions of minority residents; and

WHEREAS, Data also indicates poor urban communities have fewer physicians per capita than do more affluent areas; and

WHEREAS, Even among the state's rural areas, which, according to survey data, have 40 percent fewer physicians overall than urban areas, the supply of physicians was found to be lowest in areas with high percentages of underrepresented minorities; and

WHEREAS, Access to medical care for all California residents and all communities regardless of considerations of race, income, or geography should be a high priority policy goal; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the University of California medical schools report to the Regents of the University of California and the California Postsecondary Education Commission the current status of ethnic minority enrollment in their respective schools; and be it further

*Resolved,* That this report shall include information on the number of underrepresented students who have applied, been admitted, and enrolled during the period from 1985 to 1997, inclusive, as well as a summary of the efforts made during this period to increase the representation of those student groups; and be it further

*Resolved,* That the State of California shall strive to broaden the diversity of enrollment in the area of primary care at the University of California medical schools; and be it further

*Resolved,* That the California Postsecondary Education Commission, to the extent sufficient nonstate funds are available and in consultation with the California Research Bureau and the Office of Statewide Health Planning and Development, shall develop recommendations for innovative strategies and incentive programs that will encourage physicians and other health care professionals to practice in geographic areas where health needs are underserved; and be it further

*Resolved,* That the California Postsecondary Education Commission, in developing its recommendations, shall assess the

extent to which academic and administrative policies and programs currently employed in California's medical schools require modifications to achieve the goal of educational access to health professions for future physicians who are likely to provide health care for all California communities, including those that are underserved; and be it further

*Resolved,* That the California Postsecondary Education Commission shall consult with representatives of California medical schools, both public and private, educators representing other academic segments, health care professionals, economists, and experts from national associations and research centers for the purpose of determining factors that explain the reasons that health care professionals choose not to practice in underserved communities; and be it further

*Resolved,* That it is the intent of the Legislature that the California Postsecondary Education Commission, in consultation with the California Research Bureau and the Office of Statewide Health Planning and Development, shall issue a report to the Governor and the Legislature containing its findings and recommendations regarding these matters no later than June 30, 1998; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the Governor, the University of California, the California Postsecondary Education Commission, the California Research Bureau, and the Office of Statewide Health Planning and Development.

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## RESOLUTION CHAPTER 104

Senate Concurrent Resolution No. 38—Relative to women in military service for America.

[Filed with Secretary of State September 12, 1997.]

WHEREAS, The people of California have a special affinity for, and are greatly indebted to, the myriad brave men and women in the United States military who serve and have served to protect and defend our precious freedom; and

WHEREAS, Nearly two million women have served in military roles since the United States of America was founded; and

WHEREAS, In 1948 the Women's Armed Services Integration Act gave women a permanent place in the armed forces, where they have served with honor alongside America's servicemen in peacetime and in conflicts, including those in Korea, Vietnam, Grenada, Panama, and Desert Storm; and

WHEREAS, The achievements of women in military service have gone unrecognized until now, overlooked in history books and unrecognized by the public; and

WHEREAS, The United States Congress has authorized the construction of the Women in Military Service for America Memorial, which is currently being built at the ceremonial entrance to Arlington National Cemetery, across the Potomac River from the Lincoln Memorial; and

WHEREAS, The memorial, to be completed and dedicated in October 1997, will include a hall of honor, where the names of women who died in combat, were POWs, or won high military decorations will be prominently displayed, and a large piece of marble that is a "sister block" to that used for the Tomb of the Unknowns; and

WHEREAS, The Women in Military Service for America Memorial will be the first major national memorial in the country to honor all women who have defended America throughout its history; and

WHEREAS, Women in Military Service for America (WIMSA) Memorial Foundation, Inc., is seeking a contribution from the State of California, in the amount of one dollar for each of the 162,000 women veterans in the state, to complete the portion of the memorial dedicated to women veterans from this state; and

WHEREAS, California has a responsibility to support this memorial and to make the California public aware of the memorial and museum, a facility designed to educate its visitors about the contribution of women in maintaining freedom; and

WHEREAS, The purpose of the memorial is to recognize all women who have served in the armed forces—past, present, and future; document the experiences of women and tell their stories of service, sacrifice, and achievement; make their contributions a visible part of American history; illustrate their partnership with men in the defense of the nation; and inspire others as role models; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the Members wish to take this opportunity to honor the women veterans of the state who have nobly fought alongside the men in military service, and who are deserving of the recognition and the public memorial honoring their service with the construction of the Women in Military Service for America Memorial.

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## RESOLUTION CHAPTER 105

Senate Concurrent Resolution No. 39—Relative to cloning of human beings.

[Filed with Secretary of State September 12, 1997.]

WHEREAS, The cloning of a sheep in Scotland may lead the way to the cloning of human beings; and

WHEREAS, California is a state in which scientific achievement and biotechnical capability outstrips the rest of the country; and

WHEREAS, There may be beneficial medical applications of some aspects of human cloning research, such as research designed to address disease prevention or eradication, which should not be prohibited; and

WHEREAS, The cloning of an entire human being -- that is a living being with all the physical and mental qualities that make up a person -- raises profound medical, social, legal, and ethical implications; and

WHEREAS, There is a need for evaluation of those implications and a review of public policy related to human cloning; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the Legislature of the State of California urges the State Director of Health Services to establish a panel to advise the Legislature and the Governor on human cloning. The panel should be composed of at least seven members, to be appointed by the director, each of whom would serve without compensation. One representative should be included from medicine, religion, biotechnology, genetics, law, bioethics, and from the general public. Upon completing their evaluation of implications of human cloning for society, but not later than December 31, 2001, the advisory panel should make recommendations to the Legislature and the Governor as to how to proceed; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the State Director of Health Services, and to the Governor.

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## RESOLUTION CHAPTER 106

Senate Concurrent Resolution No. 43—Relative to highways.

[Filed with Secretary of State September 12, 1997.]

WHEREAS, Stephen P. Teale was born on June 16, 1916, in San Francisco and moved to the community of West Point in Calaveras County in 1945, where he lived until his death in 1997; and

WHEREAS, Stephen P. Teale elected to become a physician and surgeon in 1932, graduating from the California College of Osteopathic Physicians and Surgeons in 1943, and he served two years of internship and residency at Los Angeles County General Hospital; and

WHEREAS, A few years after “Doc” Teale settled in the foothills, he established his medical practice in Calaveras County and quickly became a legendary figure, having won the respect and loyalty of the citizens of Calaveras County and the Mother Lode Country; and

WHEREAS, The people of Calaveras County elected him to the county board of supervisors in 1948, where he served for five years, having been re-elected in 1952; and

WHEREAS, In a special election in 1953, “Doc” Teale was overwhelmingly elected to the State Senate representing Calaveras, Mariposa, and Tuolumne Counties, and, until his retirement in 1972, served there with distinction, being recognized as one of the Legislature’s most influential and effective members; and

WHEREAS, “Doc” Teale was also remarkable for his continued interest in technology and, in recognition of his efforts to establish computer technology in the Legislature, the Senate named the state’s computer center the “Stephen P. Teale Data Center”; and

WHEREAS, It would be a fitting tribute to Senator Stephen P. “Doc” Teale for the long years of lasting public service rendered by him to the citizens of California, particularly to the people of Calaveras County, that the portion of State Highway Route 26 between the communities of Mokelumne Hill and West Point be designated in his memory as the Stephen P. Teale Highway; and

WHEREAS, Bridge 26-17, postmile 12.14, on State Highway Route 49 between Amador City and Drytown, has been commonly known as the Rancheria Creek Bridge; and

WHEREAS, By unanimous resolution of the Amador County Board of Supervisors, the board has made known that it desires to dedicate the Rancheria Creek Bridge as the “Amador County Veterans Memorial Bridge” to honor the many veterans of Amador County who have bravely served our country in the Armed Services of the United States; and

WHEREAS, The Blue Star Memorial Highway project was adopted in 1947 by the National Council of State Garden Clubs, Inc.; and

WHEREAS, The project is designed to erect appropriate highway markers on Blue Star Memorial Highways to pay tribute to all of those who served so gallantly in the Armed Forces of the United States in World War II; and

WHEREAS, State Highway Route 89 extends from State Highway Route 395, two miles north of Topaz to three miles south of the Nevada, California state line, continues north on the west side of Lake Tahoe, crosses Interstate Highway Route 80 near Truckee, then continues north and runs jointly with State Highway Route 70 to the Greenville Wye, then continues on north on the west side of Lake Almanor to the junction of State Highway Route 36, then runs jointly with State Highway Route 36 to the south entrance of Lassen Park and continues through the national park, then continues to the north to the junction of State Highway Route 44, and then runs jointly and continues north to the junction of Interstate Highway Route 5; and

WHEREAS, State Highway Route 89 has been designated as a Blue Shield Memorial Highway; and

WHEREAS, The 10th Mountain Division of the United States Army, consisting of some 15,000 soldiers, served gallantly in the Italian Campaign during World War II; and

WHEREAS, The 10th Mountain Division sustained the loss of life of 992 soldiers, more than 300 of whom are interred in the American Military Cemetery in Florence, Italy; and

WHEREAS, Many of these veterans were originally from the Sierra Nevada region of California; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the portion of State Highway Route 26 between the communities of Mokelumne Hill and West Point in Calaveras County is hereby officially designated the Stephen P. Teale Highway, that Bridge 26-17, located at postmile 12.14 on State Highway Route 49 in Amador County, is hereby officially designated the Amador County Veterans Memorial Bridge, and that the portion of State Highway Route 89 between the City of Truckee and Tahoe City in Placer County is hereby officially designated the 10th Mountain Division Memorial Highway ; and be it further

*Resolved,* That the Department of Transportation is requested to determine the cost of appropriate plaques and markers, consistent with the signing requirements for the state highway system, showing the special designations and, upon receiving donations from nonstate sources covering that cost, to erect those plaques and markers; and be it further

*Resolved,* That the Secretary of the Senate transmit a copy of this resolution to the Director of Transportation.

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## RESOLUTION CHAPTER 107

Senate Concurrent Resolution No. 48—Relative to the Thomas M. Sanders Memorial Bridge.

[Filed with Secretary of State September 12, 1997.]

WHEREAS, In 1991, Thomas M. Sanders, a dedicated Department of Transportation Maintenance Supervisor, was killed in the line of duty, at the age of 58, while repairing a section of guardrail in a coned off area of State Highway Route 1 in the Big Sur area of Monterey County; and

WHEREAS, Maintenance Supervisor Sanders was struck and killed by an automobile operated by a driver under the influence of drugs, who was attempting to flee from a California Highway Patrol officer; and

WHEREAS, Mr. Sanders began his career in public service with the Department of Transportation in 1962, and served as Transportation Maintenance Supervisor since 1978; and

WHEREAS, Maintenance Supervisor Sanders was respected and admired by his coworkers and the citizens of the Big Sur community; and

WHEREAS, The dedication provided by this measure would remind the people of California of the serious dangers that the maintenance crews of the Department of Transportation confront each time they enter the traveled portion of a highway to maintain the highway, assist a disabled motorist, support the California Highway Patrol, or perform other related duties; and

WHEREAS, It is appropriate, therefore, that the State Highway Route 1 bridge at Burns Creek in the Big Sur area of Monterey County be dedicated to the memory of Department of Transportation Maintenance Supervisor Thomas M. Sanders, who made the ultimate sacrifice in service to the people of California; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly concurring,* That the State Highway 1 bridge at Burns Creek in the Big Sur area of Monterey County is hereby officially dedicated to the memory of Thomas M. Sanders; and be it further

*Resolved,* That the Department of Transportation is requested to determine the cost of appropriate plaques and markers, consistent with the signing requirements for the state highway system, showing that dedication and, upon receiving donations from nonstate sources covering that cost, to erect those plaques and markers; and be it further

*Resolved,* That the Secretary of the Senate transmit a copy of this resolution to the Director of Transportation.

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## RESOLUTION CHAPTER 108

Senate Concurrent Resolution No. 54—Relative to employment compensation.

[Filed with Secretary of State September 12, 1997.]

WHEREAS, In 1995, Governor Wilson sponsored Assembly Bill 398 (AB 398) which proposed to eliminate the requirement of state law that an overtime rate of compensation be paid to an employee for work in excess of eight hours per day and proposed instead to conform California's overtime compensation standard to the standard of the federal Fair Labor Standards Act of 1938, which requires an overtime rate of compensation to be paid to an employee only for work in excess of 40 hours per week; and

WHEREAS, AB 398, as proposed by Governor Wilson, was not enacted by the Legislature; and

WHEREAS, At the request of Governor Wilson, the Industrial Welfare Commission on April 11, 1997, amended Wage Orders Nos. 7-80, 1-89, 4-89, 5-89, and 9-90 to eliminate the daily overtime standard and instead to conform the overtime standard of those orders to the overtime standard of the federal Fair Labor Standards Act of 1938; and

WHEREAS, The Legislature, in adopting Sections 1182.5, 1182.6, 1182.7, 1182.9, and 1183.5 of the Labor Code, only approved limited exceptions to the eight-hour-day standard of Section 510 of the Labor Code contained in Wage Orders Nos. 7-80, 1-89, 4-89, 5-89, and 9-90, as previously adopted by the Industrial Welfare Commission, and afforded additional statutory protection for employees subject to those exceptions; and

WHEREAS, On June 27, 1997, the Superior Court for the City and County of San Francisco determined that the actions of the Industrial Welfare Commission were valid, and stated that, "The Legislative history indicates to this court that there is no basis to conclude that I.W.C. was not free under Californial law to modify its Wage Order even if the modification renders certain statutes unnecessary"; and

WHEREAS, The Legislature enacts statutes in recognition of the time-honored rule of law that no administrative agency may impair or eliminate the scope of statutory provisions; and

WHEREAS, The Legislature specifically deleted the amount of $274,000 from the Budget Act of 1996, which had been proposed for use by the Industrial Welfare Commission to amend its wage orders to eliminate daily overtime and to require overtime to be paid only when the total hours worked per week exceeds 40 hours; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the Industrial Welfare Commission acted contrary to the intent of the Legislature and in excess of the authority of the Industrial Welfare Commission in eliminating daily overtime from Wage Orders Nos. 7-80, 1-89, 4-89, 5-89, and 9-90, eliminating the protection afforded employees under Section 1182.5 and subdivision (b) of Section 1183.5 of the Labor Code, and reducing the number of employees afforded protection under the other provisions of Section 1183.5 of the Labor Code; and be it further

*Resolved,* That the Secretary of the Senate transmit a copy of this resolution to the Industrial Welfare Commission.

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## RESOLUTION CHAPTER 109

Senate Joint Resolution No. 27—Relative to World Exposition, EXPO 2000.

[Filed with Secretary of State September 12, 1997.]

WHEREAS, Following World War I, forty-eight countries joined in adopting the International Convention on World Expositions to provide opportunities for the international community to amicably and peacefully gather together to celebrate their cultural, scientific, and industrial accomplishments; and

WHEREAS, The Federal Republic of Germany and the German City of Hannover were selected by the Bureau of International Expositions in Paris, France, to host its first world exposition and the first world exposition of the 21st century; and

WHEREAS, The German government has invited 185 countries and international organizations to participate in EXPO 2000 and, by March of 1997, 113 participants have committed to take part in this global search for ways in which humankind can live together in the future in a finite world; and

WHEREAS, EXPO 2000 will attract some 40 million visitors from throughout the world to exhibits that explore the Exposition's theme, "Humankind - Nature - Technology," and which focus on nine critical issues facing the world as it enters the 21st century, each contributing to the discovery of the path to a sustainable future which safeguards economic growth, protects natural resources, and respects the cultural integrity of individual countries;and

WHEREAS, The exhibits of EXPO 2000 will combine the world's historical experiences, the most up-to-date knowledge, and the most advanced technology to promote international understanding and a dialogue in search of answers and innovative solutions regarding how the human body and the human race function; how the environment can be protected in balance with economic development; how food and nutrition will affect the future; how the world can ensure the health of its people in light of differing societal values and environmental conditions; what new developments people will be facing and how they will deal with the explosion in information availability and communication technology; the nature of work in the future in both industrialized and the less developed countries and what role will work play in peoples lives; how the human urge to be mobile will be affected by the technology of the future; the energy needs in the 21st century and its source; and how the world will provide the basic needs of clean air and water, food, and shelter to all its people in order to provide an equitable quality of life throughout the next century; and

WHEREAS, California has a history of participating in these international events as a member of the United States contingent in order to showcase California's significant private and public accomplishments in research, education, industry, and commerce; and

WHEREAS, California businesses, nonprofit entities, and public agencies have contributed significantly to identifying and solving the

many challenges faced by the people of California and the entire world during the 20th century and they likewise are poised to contribute constructively to finding solutions to challenges yet unknown in the 21st century; now, therefore, be it

*Resolved by the Senate and Assembly of the State of California, jointly,* That the Legislature of the State of California expresses its complete support for the participation of the United States, and individual states, in the World Exposition, EXPO 2000, in Hannover, Germany; and be it further

*Resolved,* That the Legislature memorializes the President and the Congress of the United States to initiate any actions and appropriate any funds needed to ensure the ability of the United States or the individual states, or both, to participate in EXPO 2000; and be it further

*Resolved,* That the Legislature hereby expresses its intent and interest in ensuring that the State of California, jointly with private and nonprofit entities, be represented at EXPO 2000 to share with and learn from the world the challenges facing humankind, nature, and technology in the 21st century; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the Governor, to the President and Vice-President of the United States, the Secretary of the Interior, the Speaker of the House of Representatives, the Majority Leader of the United States Senate, and to each Senator and Representative from California in the Congress of the United States.

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## RESOLUTION CHAPTER 110

Senate Joint Resolution No. 29—Relative to repealing export restrictions on encryption software and hardware products.

[Filed with Secretary of State September 12, 1997.]

WHEREAS, With the continuing prosperity of the California economy, hundreds of thousands of California jobs and many millions of dollars of state tax revenues are dependent upon the success of California's computer software, hardware, and related industries; and

WHEREAS, Electronic commerce, especially over the Internet, has been forecast to amount to as much as two hundred billion dollars ($200,000,000,000) per year by the year 2000; and

WHEREAS, California is in a better position to benefit more from the growth of electronic commerce than any other state because it has far more commercial Internet host computers, computer software- and hardware-producing employers and employees, and in

general, more involvement with electronic commerce and the Internet than any other state; and

WHEREAS, There is a consensus in the software and hardware industries and among the corporations and individuals who use the Internet for commerce and communication that security of communications is best provided by encryption and decryption (for example, "scrambling and unscrambling") of communications at the points of origin and destination; and

WHEREAS, There exists an enormous worldwide market for software and hardware products incorporating secure encryption features; and

WHEREAS, Current provisions of federal law dating to World War II and the Cold War relating to the export of cryptographic systems are greatly injuring California and other American companies in the worldwide cryptography and computer security markets; and

WHEREAS, The Internet, as currently configured, does not by itself provide for maintaining the security of financial, corporate, or personal communications from interception, intrusion, or alteration; and

WHEREAS, It is legal, and has been for many years, for Americans and Canadians to own and use and even import into the United States and Canada encryption products of any strength; and

WHEREAS, California producers of cryptographic products are increasingly unable to compete and prosper in the worldwide market due to export controls on encryption products imposed by the United States government during World War II and maintained throughout the Cold War, which export controls are still in effect; and

WHEREAS, Foreign competitors of American software and hardware companies are successfully selling strong, sophisticated encryption systems throughout the world, all in a manner unimpeded by government, and are selling their advanced cryptographic products by means of advertising, informing potential customers that their 128-bit and longer cryptographic products are far superior to the cryptographic products of American manufacturers because the American companies are prevented by the Arms Export Control Act (22 U.S.C. Secs. 2751 and following) from exporting cryptographic products with key lengths of more than 40 bits; and

WHEREAS, Any advantage to American law enforcement or national security formerly obtained by American export controls on cryptography has been reduced by the ready worldwide availability of strong, robust cryptographic systems produced by non-American companies and even by the ability lawfully to import these foreign systems into the United States; and

WHEREAS, The Information Technology Association of America estimates that American companies could lose up to 65 billion dollars ($65,000,000,000) in the export market for cryptography by the end of the decade and the National Research Council of the National

Academy of Sciences has concluded after exhaustive study that United States export controls on cryptography may be causing American software and hardware companies to lose a significant share of a rapidly growing market, with losses of a least a few hundred million dollars per year, and may also damage United States leadership in information technology as well as its national security; and

WHEREAS, There are pending in the United States Congress Sen. No. 377 and H.R. 695, both of which substantially ease or eliminate current federal export controls on American cryptographic products, and other legislation related to cryptography and export controls is being introduced and considered in the Congress; now, therefore, be it

*Resolved by the Senate and Assembly of the State of California, jointly,* That the Legislature of the State of California respectfully memorializes Congress and the President of the United States to take immediate action to revise the current federal export controls on the export by American companies of cryptographic products; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the United States House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

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## RESOLUTION CHAPTER 111

Assembly Concurrent Resolution No. 12—Relative to State Highway Route 85.

[Filed with Secretary of State September 15, 1997.]

WHEREAS, Numerous fatal vehicle accidents have occurred on State Highway Route 85 between the City of Cupertino and the City of San Jose in Santa Clara County, principally as the result of vehicle median crossovers; and

WHEREAS, The number of fatalities occurring upon this particular portion of State Highway Route 85 is deserving of heightened public awareness; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That it is the intent of the Legislature that the median barrier on State Highway Route 85 between the City of Cupertino and the City of San Jose be dedicated to those persons who lost their lives as a result of median crossover vehicle accidents, indicated by a plaque stating the name of each person and the date

of the accident, located on the Dent Street pedestrian overpass in San Jose for view by pedestrians; and be it further

*Resolved,* That the Department of Transportation is requested to determine the cost of an appropriate plaque, consistent with the signing requirements for the state highway system, indicating the name of each person whose death was the result of a median crossover vehicle accident and the date of that accident, and, upon receiving donations from nonstate sources covering that cost, to erect that plaque; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit a copy of this resolution to the Director of Transportation.

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## RESOLUTION CHAPTER 112

Assembly Concurrent Resolution No. 57—Relative to the Kumeyaay Highway.

[Filed with Secretary of State September 15, 1997.]

WHEREAS, The Kumeyaay Nation was composed of bands and family clans that claimed territorial rights to an area that stretched from the Pacific Ocean, east to the Colorado River, north to northern San Diego County, and south as far as Ensenada, Mexico; and

WHEREAS, The Kumeyaay had well-functioning social and economic structures that had evolved over a period of more than 10,000 years, and the Kumeyaay society practiced sophisticated governmental, private, and community property rights and religious beliefs; and

WHEREAS, Interstate Highway Route 8 through the coastal mountains to the desert has its origins in Indian trails, which became stagecoach routes, then roads, and eventually a modern interstate, and because the Kumeyaay lived as far east as the Colorado River, and since the bands connected the nation through a communication network of trained runners, it is obvious they had carved out trails over the eastern mountains to the deserts, that were adopted, as a matter of course, by the non-Indians who followed; and

WHEREAS, The approximate route of Interstate Highway Route 8 through the coastal mountains to the Imperial Valley and Colorado River was originally Kumeyaay trails and still links together five of the Kumeyaay Nation's bands; that is, the Viejas Band, Campo Band, Cayapaipe Band, La Posta Band, and Manzanita Band; and

WHEREAS, The terrain still bears historic and current witness to tribal presence in names and with reservations; and

WHEREAS, Kumeyaay labor participated in construction of the first road that later became Interstate Highway Route 8; and

WHEREAS, Designating the section of Route 8 in San Diego County from the eastern city boundary of the City of El Cajon to the eastern county boundary with the County of Imperial for San Diego's original inhabitants is therefore a fitting testimony to the contributions of California's native population; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the section of Interstate Highway Route 8 in San Diego County from the eastern city boundary of the City of El Cajon to the eastern county boundary with the County of Imperial, is hereby officially designated the "Kumeyaay Highway"; and be it further

*Resolved,* That the Department of Transportation is requested to determine the cost of erecting appropriate plaques and markers, consistent with the signing requirements for the state highway system, showing this official designation and, upon receiving contributions from private sources to cover that cost, to erect those plaques and markers; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit a copy of this resolution to the Director of Transportation.

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## RESOLUTION CHAPTER 113

Assembly Joint Resolution No. 32—Relative to Allied Hmong-Lao veterans.

[Filed with Secretary of State September 15, 1997.]

WHEREAS, Many Hmong-Lao units fought for and with the United States armed forces during the Vietnam War, and more than 35,000 of them were killed, along with countless numbers who were wounded while fighting with their American allies; and

WHEREAS, They were told by representatives of our government that the United States would not abandon them if the United States left Southeast Asia; and

WHEREAS, Many fled their own countries after the war to avoid persecution, imprisonment, or death for their loyalty to America and the armed forces of our nation; and

WHEREAS, Many of the Hmong-Lao soldiers and their families have been accepted into our country as legal immigrants; and

WHEREAS, While fighting for the United States, many of these veterans, as young soldiers, had little or no time for education in their homeland, and therefore had great difficulty learning American customs and the level of English needed to qualify for United States citizenship; and

WHEREAS, These legal immigrants are now in danger of losing supplemental security income, food stamps, and all federal means-tested benefits; now therefore, be it

*Resolved by the Assembly and Senate of the State of California, jointly,* That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to recognize the sacrifices and services rendered to our country by the Hmong-Lao veterans who served in the special guerrilla units that were allied with, and operating in support of, the military forces of the United States during the Vietnam War by granting those veterans and their families full United States citizenship; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the United States House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

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## RESOLUTION CHAPTER 114

Assembly Concurrent Resolution No. 74—Relative to Workplace Fitness Month.

[Filed with Secretary of State September 17, 1997.]

WHEREAS, The federal government has commissioned numerous reports regarding employee wellness, and has concluded that physical fitness plays an important role in the overall health of employees; and

WHEREAS, The Legislature has a history of supporting efforts that recognize and encourage physical fitness; and

WHEREAS, The Governor has charged California's Council on Physical Fitness and Sports to develop physical fitness goals for Californians of all ages, and to facilitate collaboration among federal, state, and local agencies, education, business and industry, and others, in the promotion of physical fitness;

WHEREAS, The 1996 Report of the Surgeon General on Physical Activity and Health concluded that people of all ages, both male and female, benefit from regular physical exercise, and identified the workplace as one of the important places for people to be able to do so; and

WHEREAS, The Governor's Executive Order W-119-95 directed that a comprehensive Statewide Work Site Health Promotion and Illness Prevention Program, including exercise programs, be established for all state employees; and

WHEREAS, Physical activity and fitness programs in the workplace, including onsite exercise facilities and exercise classes, reimbursable membership fees in health clubs, YMCA's, and YWCA's, informal walking clubs, formal fitness challenges and campaigns, and flexible health benefits that include exercise-related activities, provide a mechanism for reaching large numbers of adults; and

WHEREAS, Regular exercise helps reduce the chance of heart disease for all people, which is the leading cause of death in the nation; and

WHEREAS, Employees who participate in a fitness program are reported to be more alert, generally have an improved ability to perform, have a better rapport with coworkers and supervisors, are more relaxed and patient, are less tired at work, have enhanced self-esteem, and have fewer grievances, accidents, and absences than nonparticipants; and

WHEREAS, The evidence pointing to the success of the fitness programs in improving employee health practices, reducing medical and disability costs, and improving productivity is indisputable; and

WHEREAS, The Legislature supports the promotion of employee fitness programs as a means of reducing absenteeism and employee turnover, while bolstering employee morale and commitment; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Legislature hereby proclaims the month of October 1997 as Workplace Fitness Month in California, and encourages all Californians to participate in regular exercise programs and physical activity for healthier lives and improved work performance and satisfaction; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit a copy of this resolution to the Governor.

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## RESOLUTION CHAPTER 115

Assembly Joint Resolution No. 36—Relative to child passenger restraint systems.

[Filed with Secretary of State September 17, 1997.]

WHEREAS, Motor vehicle accidents are the leading cause of death and injury to children; and

WHEREAS, A properly installed child passenger restraint system can reduce the risk of serious or fatal injury to a child in a crash by 71 percent and reduce the need for hospitalization by 67 percent, and child restraint systems are 50 percent effective in preventing minor injury; and

WHEREAS, The National Highway Traffic Safety Administration (NHTSA) estimates that if all child safety seats were correctly installed in vehicles, 5,300 injuries would be prevented and the lives of 500 young children would be saved each year; and

WHEREAS, NHTSA estimates that child restraint systems saved the lives of 2,934 children under the age of five years in the United States from 1982 through 1995; and

WHEREAS, NHTSA estimates that 600 children under five years of age were killed and approximately 70,000 were injured due to improper, or lack of, use of child car safety seats in the United States in 1996; and

WHEREAS, In 1996, the Department of the California Highway Patrol issued 15,516 citations for noncompliance with child restraint system laws; and

WHEREAS, As many as 80 percent of all child safety seats are used incorrectly in the United States, and safety seat checkups conducted in California have shown that as many as 92 percent of child safety seats in the state are misused; and

WHEREAS, The Department of the California Highway Patrol reports that 30 of the 48 children under four years of age who died as passengers in 1993 were in a car seat, but only eight of those car seats were properly installed; and

WHEREAS, Of the children who died in California car accidents in 1995, 85 percent would have survived had they been sitting in correctly installed child restraint systems; and

WHEREAS, The impact received by a child in an improperly installed child restraint system at 30 miles per hour is the same as being thrown out of a third-story window; and

WHEREAS, For a child traveling in a vehicle, the most dangerous place to be is in an adult's arms, otherwise known as the "child crusher position"; and

WHEREAS, In a crash at approximately 30 miles per hour, a 10-pound infant will be ripped from a belted adult's arms with a force of almost 200 pounds; and

WHEREAS, A mother weighing 100 pounds, sharing an adult seat belt with her child, in a car traveling 25 miles per hour, on impact will throw 2,500 pounds of pressure against the child; and

WHEREAS, According to NHTSA, 479 children could have been saved nationwide in 1995 if they had been properly restrained in their child car safety seat; and

WHEREAS, For consumers the most likely point of contact for information regarding child restraint systems for new vehicles is the automobile dealer, and yet sales, service, and parts personnel are generally unaware of child restraint system installation problems and techniques, and supplemental tools needed for installation; and

WHEREAS, The only other existing sources of information and assistance about child restraint systems for consumers are printed

manuals, instructions, and labels provided by child restraint system and automobile manufacturers; and

WHEREAS, While some of this information is mandated by regulation, it is often provided at the discretion of the manufacturer, and does not necessarily accurately display or describe proper installation; now, therefore, be it

*Resolved by the Assembly and Senate of the State of California, jointly,* That the Legislature encourages the National Highway Traffic Safety Administration to continue developing and assembling data on CD ROM to demonstrate which child restraint systems are compatible with which vehicles; and be it further

*Resolved,* That the Legislature supports the recommendations of President Clinton that, under the National Transportation Department Plan, every child car safety seat have two standard buckles at its base, that every automobile manufacturer install standard latches in the back seat that are designed specifically to fasten these buckles, that universal attachments be developed to secure the top of the child car safety seat to the automobile's interior, and that the new safety system, referred to as the Uniform Child Restraint Anchorages (UCRA), be available for purchase by 1999; and be it further

*Resolved,* That the Legislature commends the General Motors Corporation for committing $10.6 million for a five-year partnership with the National SAFE KIDS Campaign to promote correct installation and use of child restraint systems; and be it further

*Resolved,* That the Legislature commends the automobile manufacturers that are currently developing and disseminating safety information, and encourages all automobile manufacturers to develop educational materials on the correct placement and installation of child restraint systems in their vehicles for use by automobile dealer sales, service, and parts personnel, child restraint system trainers, and child restraint system manufacturers; and be it further

*Resolved,* That automobile dealers should have at least one person on staff who is knowledgeable about how to correctly install a child restraint system; and be it further

*Resolved,* That warnings of incompatibility between vehicle seating positions and child restraint systems should be prominent in automobile and child restraint system owner's manuals, as well as in vehicles; and be it further

*Resolved,* That child restraint system manufacturers should develop comprehensive, consistent language on and illustration of, correct installation of child restraint systems in their instruction manuals; and be it further

*Resolved,* That the Legislature encourages the manufacturers of child restraint systems to identify which automobile makes and models their products are compatible with, and enclose this

information in the initial child restraint system packaging; and be it further

*Resolved,* That an intensive child restraint system educational campaign on the correct use and installation of child restraint systems should be undertaken by federal and state governments and automobile and child restraint system manufacturers; and be it further

*Resolved,* That the Legislature memorializes the President and Congress of the United States to work together to promote and support practical methods of encouraging automobile manufacturers to address the problems discussed in this resolution as well as the safety risks that arise because of the problems; and be it further

*Resolved,* That the Legislature urges the President and Congress of the United States to encourage automobile manufacturers, that are not presently informing their customers about the need to correctly install child restraint systems, to take steps to educate consumers with regard to the correct installation procedures for child restraint systems; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and the Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the Administrator of the National Highway Traffic Safety Administration, and to the Chief Executive Officer of the General Motors Corporation.

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## RESOLUTION CHAPTER 116

Senate Concurrent Resolution No. 26—Relative to state employee merit awards.

[Filed with Secretary of State September 18, 1997.]

WHEREAS, An award of $5,000 has already been made to Judy V. Kessinger, Employment Development Department, for a proposal resulting in annual savings of $150,091, recommending the development of a new “Overpayment Determination Ruling Notice Recall Selection Screen” to allow for selection and viewing/printing of notices in the Centralized Overpayment Establishment Tax Branch, thereby eliminating the need to view all Unemployment Insurance Claim Notes and eliminating the process of reentering the original data in order to access a screen; and

WHEREAS, An award of $5,000 has already been made to Pamala S. Corona, Employment Development Department, for a proposal resulting in annual savings of $201,982, recommending designating a

"central meeting planner" for each branch or division so that meeting functions would be coordinated through the Centralized Conference Coordination Unit, thereby providing the Employment Development Department with efficient, well-planned, and cost-effective meetings and ensuring compliance with applicable laws, rules, and regulations; and

WHEREAS, An award of $5,000 has already been made to John L. Johnson, State Department of Mental Health, for a proposal resulting in annual savings of $87,648, recommending United Parcel Service (UPS) deliver all packages as "direct deliveries" to individual departments instead of to a central dock service area for subsequent delivery of these packages by a Department of General Services employee to the individual departments, thereby providing substantial savings annually by each department; and

WHEREAS, An award of $5,000 has already been made to Socorro Wallace and Keenen Sederquist, Department of Parks and Recreation, for a proposal resulting in total net savings of $192,771, recommending combining two attendance documents, Form STD 634, Absence Request, and Form SCO 672, Time and Attendance Report, into one form, thereby enabling timekeepers to use this one form on a personal computer and electronically transfer attendance reporting to the Headquarters Personnel Office through the Statewide Area Network; and

WHEREAS, An award of $5,000 has already been made to Michael S. McNealy, Department of Transportation, for a proposal resulting in annual savings of $94,758, recommending the installation of paint/catalyst mixing valves in three-paint booths, thereby reducing material costs, reducing the amount spent on hazardous waste removal, and saving time by eliminating the need to replace lines and clear the paint system; and

WHEREAS, An award of $5,000 has already been made to Glenn C. Annis and John Eaves, Department of Transportation, for a proposal resulting in annual savings of $282,488, recommending eliminating illegal disposal of lead contaminated wastewater by using disposal charges, a gravity settling process, instead of using red lead undercoat paint and other types of finish coats, to prevent rust on bridges; and

WHEREAS, An award of $5,000 has already been made to Sheila K. Vassey, State Water Resources Control Board, for a proposal resulting in annual savings of $75,406, recommending legislation to change the existing law, which would require persons responsible for requesting a state or regional board employee's attendance, as a witness, to reimburse the state for the employee's salary, thereby resulting in 23 departments that have reported increased reimbursement; and

WHEREAS, These employees' proposals have resulted in actual savings of $1,085,144; and

WHEREAS, As a result of these savings and increased revenue, it is unnecessary to appropriate additional funds for payment of awards to these employees; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the Legislature hereby declares that the following additional awards, authorized by the Department of Personnel Administration, be made to the following named employees:

| | |
|---|---|
| Judy V. Kessinger .................. | $10,009 |
| Pamala S. Corona .................. | $15,198 |
| John L. Johnson .................... | $ 3,765 |
| Socorro Wallace .................... | $ 7,139 |
| Kennen Sederquist .................. | $ 7,139 |
| Michael S. McNealy ................ | $ 4,476 |
| Glenn C. Annis ..................... | $11,624 |
| John Eaves ......................... | $11,624 |
| Sheila K. Vassey .................... | $ 2,547; and be it further |

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the Controller and the Department of Personnel Administration.

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## RESOLUTION CHAPTER 117

Senate Concurrent Resolution No. 46—Relative to cancer awareness.

[Filed with Secretary of State September 18, 1997.]

WHEREAS, William "Walkin' Willie" Croker, a resident of Pico Rivera and a gas station attendant, has increased public awareness of the importance of cancer checkups by undertaking over 24,000 miles of long-distance journeys on foot; and

WHEREAS, Walkin' Willie lost his mother, father, and sister to cancer in the 1970s and, prior to her death, he made a promise to his mother that he would spread the news of the importance of early cancer detection; and

WHEREAS, Walkin' Willie believes that many deaths from cancer could be prevented by early detection and treatment; and

WHEREAS, In 1974 Walkin' Willie began his first trek as he made his way from Artesia, California to Las Vegas, Nevada to demonstrate the suffering that cancer patients go through when they undergo radiation treatments; and

WHEREAS, In 1987, Walkin' Willie walked 3,200 miles in his first cross-country trip from Hawaiian Gardens, California to Washington, D.C. to publicize the need for cancer checkups; and

WHEREAS, In 1988, Walkin' Willie walked from Los Angeles to Sacramento to publicize the need for cancer checkups; and

WHEREAS, In 1989, Walkin' Willie again walked from the West Coast to Washington, D.C., where he met with President George Bush, to publicize the need for cancer checkups, and also crossed the Colorado Rockies; and

WHEREAS, Walkin' Willie's most recent walk will begin on July 4, 1997, when he will walk 128 miles across Death Valley, California, in temperatures up to 130 degrees; and

WHEREAS, Walkin' Willie's journeys are financed by donations from individuals and businesses and from the proceeds of a film titled "Walkin' Willie: A Man and His Dream"; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That William "Walkin' Willie" Croker's efforts to promote the awareness of the need for cancer screening among the people of California, the United States, and the world should be commended and supported.

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## RESOLUTION CHAPTER 118

Senate Concurrent Resolution No. 49—Relative to school safety.

[Filed with Secretary of State September 18, 1997.]

WHEREAS, The Department of Justice crime statistics show that since 1989 the rate of homicides committed by juveniles has significantly exceeded that for adults; and

WHEREAS, The Department of Justice statistics also show that between 1985 and 1995 the juvenile arrest rate for violent crimes has increased 54.9 percent; and

WHEREAS, The number of juveniles in California between 10 and 17 years of age increased 17 percent between 1985 and 1995, the number of juveniles arrested for homicide increased 121 percent during that same period; and

WHEREAS, While the juveniles in California between 10 and 17 years of age make up 11.3 percent of the state's total population, they account for 18.5 percent of those arrested for homicide; and

WHEREAS, The California Constitution guarantees students and staff the right to be safe and secure on public primary, elementary, junior high, and senior high school campuses; and

WHEREAS, There is a need for violence prevention strategies that effectively deal with individual and cultural relations and that

include the collaboration of parents, community members, and law enforcement; and

WHEREAS, School districts, in conjunction with the Senate Select Committee on School Safety, will continue to strengthen their efforts to reduce and prevent violence through unity, harmony, and collaboration; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the Legislature recognizes October 1997 as School Safety Month and the week of January 12 to 16, 1998, inclusive, as Yellow Ribbon Week; and be it further

*Resolved,* That the Legislature encourages all schools to participate in appropriate activities during School Safety Month to recognize the importance of conflict resolution and violence eradication; and be it further

*Resolved,* That the Legislature encourages parents, pupils, teachers, other school personnel, and members of the community to wear yellow ribbons during the week of January 12 to 16, 1998, inclusive, to demonstrate their commitment to school safety and in recognition of pupils who have lost their lives as a direct result of school violence.

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## RESOLUTION CHAPTER 119

Senate Concurrent Resolution No. 52—Relative to National Lymphoma Awareness Week.

[Filed with Secretary of State September 18, 1997.]

WHEREAS, Lymphoma is one of the most rapidly increasing cancers in the United States; and

WHEREAS, More than 600,000 Americans are currently battling lymphoma; and

WHEREAS, Lymphoma is the fourth largest killer of men and the fifth largest killer of women in the 25-to-65-year-old age group in the United States; and

WHEREAS, On October 16, 1995, Katie Bulen of Paso Robles tragically lost her life at the age of eight years to this deadly disease; and

WHEREAS, Cindy Bulen, mother of Katie, is a volunteer Public Awareness Coordinator for the Lymphoma Research Foundation of America; and

WHEREAS, The Lymphoma Research Foundation of America was established in 1991 after its president and founder, Ellen Glesby Cohen, was diagnosed with incurable non-Hodgkin's lymphoma; and

WHEREAS, In just five years, the foundation has given close to $1 million to fund 32 research grants at cancer centers and universities

across the country and has become the foremost lymphoma resource in the United States; and

WHEREAS, Ninety-two percent of money raised by the foundation goes directly to research and is used to support the foundation's programs, which include free support groups for patients and their families, a telephone helpline and buddy system, a quarterly newsletter, and an Internet web site containing the most up-to-date information on treatments, therapies, and research; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the week of October 12 through October 18, 1997, be designated National Lymphoma Awareness Week, and that the important work of the Lymphoma Research Foundation of America toward finding a cure to this devastating disease be recognized.

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## RESOLUTION CHAPTER 120

Senate Concurrent Resolution No. 53—Relative to Dr. George Washington Carver Day.

[Filed with Secretary of State September 18, 1997.]

WHEREAS, 1996–97 is the centennial celebration of the arrival of Dr. George Washington Carver in Tuskegee, Alabama, where Dr. Carver was a prominent resident from October 8, 1896, until his death on January 5, 1943; and

WHEREAS, The United States Congress has designated January 5, 1946, as "Dr. George Washington Carver Day," and authorized the Secretary of State to issue a proclamation to fly the United States flag on all government buildings in commemoration of the achievements of Dr. George Washington Carver; and

WHEREAS, Upon approval of the United States Congress to designate "Dr. George Washington Carver Day," nine sister states including Illinois, Indiana, Connecticut, New Jersey, New York, Pennsylvania, West Virginia, Iowa, and Alabama now honor this great American; and

WHEREAS, In addition to being an accomplished scientist, Dr. Carver also was an outstanding educator, artist, poet, musician, and benefactor to the American people; and

WHEREAS, Dr. Carver helped to liberate the Southern economy from excessive dependence on cotton and, by 1938, peanut crops had become a $200 million industry; and

WHEREAS, Dr. Carver discovered countless uses for the peanut, sweet potato, and soybean, thus stimulating production of these crops throughout the South; and

WHEREAS, While serving as the first Black instructor at Iowa State, Dr. Carver was invited by the eminent educator, Booker T. Washington, to join the faculty at Tuskegee Institute (now Tuskegee University) as director of the Department of Agriculture; and

WHEREAS, In February 1897, Dr. Carver became the first director of the State Agricultural Experiment Station, approved by legislative act for Tuskegee on February 18, 1897; and

WHEREAS, The epitaph on his tombstone in Tuskegee appropriately reads: "He could have added fortune to fame, but caring for neither, he found happiness and honor in being helpful to the world"; and

WHEREAS, Dr. Carver's gravesite, as well as the Tuskegee Institute National Historic Site, which was established in his honor and that of Booker T. Washington, is one of the most popular tourist sites in the Southern United States, and was visited by over 800,000 visitors during 1996; and

WHEREAS, California is proud to follow the United States Congress and nine other states by declaring January 5th as "Dr. George Washington Carver Day," and reaches out to the other 40 states to join in this celebration; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That January 5th is designated as "Dr. George Washington Carver Day," in honor and celebration of Dr. Carver's many accomplishments and contributions to the people of our state, our nation, and the world; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

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## RESOLUTION CHAPTER 121

Assembly Concurrent Resolution No. 26—Relative to Business Watch Month.

[Filed with Secretary of State September 22, 1997.]

WHEREAS, Neighborhood Watch has been an effective program aimed at keeping crime out of our neighborhood. It relies on the best crime fighting tool, a good neighbor; and

WHEREAS, Good neighbors are found everywhere. By cooperating with each other and with local law enforcement, people can help fight crime near or at their businesses; and

WHEREAS, Business Watch is a crime prevention program that enlists the active participation of local businesses in cooperation with local law enforcement to reduce crime against local businesses; and

WHEREAS, Business Watch is successful because the business people work as a group to take charge and decide what action is

needed, target specific problem areas, develop realistic goals, and celebrate their successes in California; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the month of November, 1997, be proclaimed the Business Watch Month, in honor of the contributions provided by Business Watch; and be it further

*Resolved,* That Business Watch be commended for its successful programs in fighting crime.

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## RESOLUTION CHAPTER 122

Assembly Concurrent Resolution No. 58—Relative to nutrition.

[Filed with Secretary of State September 22, 1997.]

WHEREAS, Diet-related diseases, including cardiovascular disease, cancer, and diabetes, result in enormous costs to public health programs and private health insurers, with poor diet and inactivity alone accounting for at least 25 percent of the nation's $820 billion in annual health care costs; and

WHEREAS, Consistent research findings that diet and exercise can significantly reduce the likelihood of diet-related diseases, increase productivity, improve learning, and contribute to an increased quality of life have led to the adoption in California of the national "Healthy People 2000" prevention goals for nutrition and physical activity; and

WHEREAS, Individual dietary choices and the health of Californians generally are powerfully influenced by activities and messages from agriculture, the food industry, and mass media; and

WHEREAS, California's state and local governments operate a number of nutrition and nutrition-related programs, many designed and funded by the federal government, that help ensure access to a nutritious, safe, and affordable food supply, promote healthy eating, and prevent hunger among target populations; and

WHEREAS, These programs include the National School Breakfast Program, the National School Lunch Program, the Child Care Food Program, the Special Milk Program, and the Nutrition Education and Training (NET) Program in the State Department of Education; the Food Stamp Program in the State Department of Social Services; the Brown Bag Network, Congregate Nutrition Services, and Home Delivered Nutrition Services in the California Department of Aging; the Expanded Food and Nutrition Education Program (EFNEP) of the University of California; and the Special Supplemental Food Program and the Farmer's Market Nutrition Program for Women, Infants, and Children (WIC), the Child Health and Disability Prevention Program (CHDP), other family health and Medi-Cal

managed care programs, the California Five-a-Day for Better Health! Campaign, California Project LEAN, and the California Nutrition Promotion Network for Lower Income Consumers in the State Department of Health Services; and

WHEREAS, Trends indicate that significant shifts in policymaking and planning from the federal level to the states will occur, responsibilities between state and county and other local governmental entities may be realigned, and new partnerships between government and the private sector will be necessary; and

WHEREAS, In order for Californians to reach the "Healthy People 2000" goals for nutrition, the state will require stronger partnerships among agriculture, food industry, restaurant, nonprofit, professional, and consumer organizations; and

WHEREAS, For nearly 20 years reports urging improvements in state nutrition policy and planning have been issued, among which are the 1979 Report to the Governor and Legislature, "A Strategy for Food and Nutrition Planning in California," the 1987 Senate Office of Research Report, "Food Policies and Hunger in California," the 1989 Report to the Governor and Legislature on Nutrition Monitoring for California, the 1994 California Nutrition Council report, "Future Directions for Nutrition Policy in California," the 1995 University of California report, "Hunger and Food Insecurity in California," and the 1997 California Nutrition Council report, "Blueprint for Coordinated Food and Nutrition Policy"; and

WHEREAS, In spite of these trends, reports and the known benefits of healthy eating to public health, agriculture, and the California economy, the state has never convened the experts nor organized a body charged with developing a comprehensive, coordinated state food and nutrition policy; and

WHEREAS, Absent a comprehensive and coordinated food and nutrition policy in California, there exists an unacceptable risk of administrative fragmentation and uncoordinated planning among state agencies and levels of government, an inability to make rational choices among competing and changing priorities, and inability to respond quickly to federal policy shifts, and inefficient allocation of state resources, and a diminished ability to work efficiently with private-sector partners and local government entities; now, therefore, be it

*Resolved, by the Assembly of the State of California, the Senate thereof concurring,* That the Governor of California is requested to develop a comprehensive, coordinated food and nutrition policy for California that addresses the issues described above and builds upon the findings of the Blueprint for Coordinated Food and Nutrition Policy in the areas of food security, supply and delivery, nutrition and health, nutrition education and marketing, food safety and quality, and research and professional development; and be it further

*Resolved,* That in order to create a comprehensive and coordinated policy, the Governor of California is urged to appoint a Blue Ribbon

Task Force on Food and Nutrition Policy, comprised of representatives and experts drawn from appropriate governmental agencies, including the state departments of Aging, Education, Food and Agriculture, Health Services and Social Services, the Governor's Office of Child Development and Education, and the University of California; the California Conference of Local Health Officers; and consumer, education, marketing, professional, trade, and voluntary organizations, including, but not limited to, the American Cancer Society, the American Heart Association, the Black Health Network, the Dairy Council of California, the California Dietetic Association, the California Farm Bureau Federation, the California Healthcare Association, the California Medical Association, the California Nutrition Council, the California Public Health Association, the California Restaurant Association, the California School Food Service Association, the Latino Social Worker Network, the Western Growers' Association, and one or more hunger advocacy organizations; and be it further

*Resolved,* That the Blue Ribbon Task Force consider in its deliberations a full range of policy options and cost effectiveness projections to benefit the individuals now served by federal food, nutrition, and health programs, as well as Californians more generally; and be it further

*Resolved,* That the Blue Ribbon Task Force be requested to transmit its report to the Governor and the Legislature no later than December 31, 1998.

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## RESOLUTION CHAPTER 123

Assembly Concurrent Resolution No. 68—Relative to Mexican independence.

[Filed with Secretary of State September 22, 1997.]

WHEREAS, For centuries the people of Mexico suffered under the political and economic oppression of the government of Spain; and

WHEREAS, The resistance of the people to Spanish rule flourished during the late 18th century and culminated in plans to create an independent Mexico, free of foreign domination; and

WHEREAS, On the 16th of September, 1810, a popular uprising was launched when a leader of the freedom fighters, Don Miguel Hidalgo y Costilla, the priest of the town of Dolores, proclaimed to his congregation: "Long live independence! Death to bad government!"; and

WHEREAS, Don Miguel's proclamation marked the beginning of the Mexican people's long struggle for independence from the tyranny of a distant monarchy; and

WHEREAS, Nearly 11 years later, New Spain won its independence from Old Spain and proclaimed itself the nation of Mexico; and

WHEREAS, Forty years later, the Mexican people drove a new invader in the form of troops from France from their soil and established, once and for all, their independence from foreign domination; and

WHEREAS, The people of Mexico have, through their courage and tenacity, created a proud heritage of independence, often against overwhelming odds; and

WHEREAS, The nation of Mexico has emerged as an economically, as well as politically, powerful participant in world affairs; and

WHEREAS, Mexico and United States, particularly the State of California, are now forming ever closer ties, both cultural and economic, that benefit both nations; and

WHEREAS, More than one in four Californians now trace their roots to Mexico, a number that is expected to grow to nearly 40 percent of the state's population in the next quarter century; and

WHEREAS, People of Mexican heritage have played a major role in the history of California for more than four centuries and now play an increasingly important role in all facets of the state's economic, cultural, and political life; and

WHEREAS, The nation of Mexico and its people have proven to be good neighbors to the United States and the State of California; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Legislature of the State of California hereby calls on all the people of California to join the people of Mexico and Californians of Mexican heritage in celebrating the 16th of September with the cry of Don Miguel Hidalgo: "Long live independence! Death to bad government!"

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## RESOLUTION CHAPTER 124

Assembly Joint Resolution No. 4—Relative to antipersonnel landmines.

[Filed with Secretary of State September 22, 1997.]

WHEREAS, There are 110,000,000 landmines scattered in 69 countries, with this figure increasing dramatically year by year, continuing violence against civilians long after warfare has ceased; and

WHEREAS, These landmines are widely deployed in the developing countries of Asia, Africa, and Latin America; and

WHEREAS, Another victim is killed or maimed by landmines every 20 minutes, more than 25,000 each year, and most of the victims are children playing or women peasants seeking to feed their families; and

WHEREAS, In the worst affected areas, the landmines play havoc with the economy; refugees cannot return home, farmers cannot till the fields, relief shipments cannot be delivered, animals cannot reach waterholes, suitable lands are overfarmed, health care systems are overwhelmed, mine clearance costs are exorbitant; and

WHEREAS, The United States has been a major producer and exporter of antipersonnel landmines for a quarter century, although it has declared a moratorium, recently extended to 1999, on the export of antipersonnel landmines; and

WHEREAS, Many U.S. military leaders, including General Schwarzkopf, have confirmed that there is no need for antipersonnel landmines as weapons; and

WHEREAS, The United States has recognized the humanitarian cost of antipersonnel landmines and is pursuing efforts in the United Nations and elsewhere to address the problem; and

WHEREAS, Despite international momentum for a global ban on antipersonnel landmines, the latest United Nations conference failed to negotiate a ban; and

WHEREAS, More than 150 U.S. humanitarian organizations including the Red Cross, CARE, Save the Children, Catholic Relief Services, and World Vision, have joined more than 500 humanitarian organizations around the world in calling for an immediate ban on the production, stockpiling, use, and transfer of antipersonnel landmines; and

WHEREAS, The United States has joined over 70 other nations in putting forth a United Nations resolution calling for an international ban on the production, stockpiling, use and transfer of antipersonnel landmines, as well as being an active participant in the recent conference in Ottawa, Canada, that called for an international treaty; now, therefore, be it

*Resolved by the Assembly and Senate of the State of California, jointly,* That the Legislature of the State of California encourages the leaders of the United States to work with our allies and other nations toward the creation of an international ban on the manufacture, stockpiling, sale and use of antipersonnel landmines; and be it further

*Resolved,* That the Legislature of the State of California also urges the President and the Congress of the United States to turn the recently enacted three-year extension of a moratorium on exports of antipersonnel landmines into a permanent ban; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the United States House of Representatives,

and to each Senator and Representative from California in the Congress of the United States.

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## RESOLUTION CHAPTER 125

Assembly Joint Resolution No. 13—Relative to a balanced budget amendment.

[Filed with Secretary of State September 22, 1997.]

WHEREAS, The Congress of the United States of America is considering the ratification of the balanced budget amendment to the Constitution of the United States of America; and

WHEREAS, Amending the Constitution of the United States should not be entered into without the full knowledge of the California Legislature as to the economic and human consequences of the amendment on the State of California; and

WHEREAS, The potential impact of the balanced budget amendment, without protections for seniors, Medicare recipients, and social security recipients, upon the State of California and its individual citizens could be massive and without precedent; and

WHEREAS, Older Americans in this country have labored their entire life to prosper and succeed to make America great; and

WHEREAS, Congress should take every step to exempt social security from the balanced budget amendments; and

WHEREAS, Congress needs to adopt a hands-off approach to social security and the Medicare system and stop any further action to hurt older Americans; and

WHEREAS, All efforts should be continued to keep social security from the balanced budget amendment since Congress took it "off budget" in 1990; and

WHEREAS, The Legislature of the State of California needs sufficient information and data upon which to base its appraisal of the impact of the balanced budget amendment; now, therefore, be it

*Resolved by the Assembly and Senate of the State of California, jointly,* That the Legislature respectfully memorializes the President and Congress of the United States to continue efforts to indefinitely ensure that social security is not threatened in any way, to protect older Americans who are receiving social security and Medicare from undue harm and stress from the continuing dialogue, to stop any effort to hurt the income security of older Americans, to ensure that everything necessary is being done to make sure that older Americans continue to receive all that they are entitled to and deserve, and to ensure the solvency of social security and Medicare for future generations of taxpayers and senior citizens entitled to the benefits provided by those programs; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

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## RESOLUTION CHAPTER 126

Assembly Joint Resolution No. 18—Relative to eliminating discrimination against women.

[Filed with Secretary of State September 22, 1997.]

WHEREAS, The United Nations Commission on the Status of Women formulated a document entitled the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW); and

WHEREAS, The United Nations General Assembly adopted the Convention, and opened it for signature in December 1979; and

WHEREAS, The Convention, sometimes called an international Bill of Rights for women, obligates those countries that have ratified or acceded to it to take all appropriate measures to ensure the full development and advancement of women in all spheres, including political, educational, employment, health care, economic, social, legal, marriage and family relations, as well as to modify the social and cultural patterns of conduct of men and women to eliminate prejudice, customs, and all other practices based on the idea of the inferiority or superiority of either sex; and

WHEREAS, Fifty-two countries, including the United States, signed the Convention during the 1980 Mid-Decade Conference for Women in Copenhagen, Denmark; and

WHEREAS, To date, 160 countries, representing over half the countries of the world, have now ratified or acceded to the Convention; and

WHEREAS, The United States has not yet ratified or acceded to the Convention; now, therefore, be it

*Resolved by the Assembly and Senate of the State of California, jointly,* That the Legislature of the State of California commends the local, national, and international efforts of the National Committee on the United Nations to promote the universal adoption of the United Nations Convention on the Elimination of All Forms of Discrimination Against Women, and urges the United States Senate to ratify CEDAW; and be it further

*Resolved,* That the Assembly and the Senate of the State of California shall work to ensure the elimination of discrimination against women and girls in the State of California, as they pursue the

enjoyment of all civil, political, economic, and cultural rights, as expressed in the CEDAW treaty; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

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## RESOLUTION CHAPTER 127

Assembly Concurrent Resolution No. 21—Relative to Small School District Week.

[Filed with Secretary of State September 23, 1997.]

WHEREAS, There are 608 small school districts in the State of California with over 460,000 pupils enrolled in them; and

WHEREAS, Small schools often have smaller class sizes in which pupils benefit by receiving more individual attention from the teachers; and

WHEREAS, In 1989 Allan C. Ornstein published research on school district size and school size that found that small schools have positive indicators upon pupil performance; and

WHEREAS, Small schools often have few pupils who are below average in both reading and math, as indicated by research conducted by John A. Thompson in 1994; and

WHEREAS, There are more opportunities for pupils to be leaders in clubs and organizations and to participate in athletics in small schools; and

WHEREAS, In small schools, pupils often receive peer tutoring due to more heterogeneous age-grouping practices, pupils are often exposed to more advanced material at an earlier age, and pupils often benefit academically from more cooperative learning environments; and

WHEREAS, In 1984 P. Lindsay published research finding high pupil participation, satisfaction, and attendance in small schools, as well as a stronger sense of belonging and lower dropout rates among pupils in small schools; and

WHEREAS, Superintendents of schools have opportunities to spend time out of their offices to be with pupils and teachers on a regular basis and routinely visit classrooms and observe instruction; and

WHEREAS, Teachers often know the family backgrounds of their pupils, and that enables teachers to make special provisions for individual pupil needs and talents and to receive cooperation from parents in resolving problems that may arise; and

WHEREAS, Pupils are the ultimate beneficiaries of the closer relationships among parents, teachers, administrators, and the community; and

WHEREAS, Many small schools serve as the nucleus of the community with strong support from parents and other community members and the community's awareness of school policies and what goes on in school results in an informal accountability; and

WHEREAS, The community exerts direct control over the school and thus sees that the school serves the specific needs of the community; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Legislature of the State of California consider appropriate recognition of the small school districts in the State of California in designating the third week of September as Small School District Week.

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## RESOLUTION CHAPTER 128

Assembly Concurrent Resolution No. 76—Relative to breast cancer.

[Filed with Secretary of State September 23, 1997.]

WHEREAS, Breast cancer is an epidemic that will strike one out of eight American women and one out of 10 California women in their lifetime; and

WHEREAS, Breast cancer is the most common form of cancer among women and is second only to lung cancer as the leading cause of cancer deaths among women, both nationally, and in California; and

WHEREAS, In the United States, approximately 46,000 women will die of breast cancer and some 180,000 new cases will be diagnosed in 1997; and

WHEREAS, In the State of California, approximately 5,000 women will die of breast cancer and nearly 20,000 new cases will be diagnosed in 1997; and

WHEREAS, In California, the highest incidence of breast cancer is found in Anglo women, the highest mortality rate occurs among African-American women, and the greatest percentage of late-stage diagnosis occurs among Latino and African-American women; and

WHEREAS, Breast cancer is increasingly being diagnosed among women in their 30's and 40's; and

WHEREAS, More than 70 percent of women with breast cancer exhibit none of the known risk factors; and

WHEREAS, Although evidence is emerging about a link between environmental factors and breast cancer, not enough research is being funded to pursue this link; and

WHEREAS, Despite over 25 years of the "war on cancer," there is still no known cause, cure, or method of preventing breast cancer; and

WHEREAS, While mammography remains an important method for breast cancer detection, it often fails to identify the disease effectively, particularly among women in their 20's, 30's, and 40's; and

WHEREAS, In addition to the incalculable emotional costs to women and their families, the direct and indirect economic costs of breast cancer are estimated at $8 billion a year nationally in additional health care services and lost productivity; and

WHEREAS, Historically, breast cancer research has been grossly underfunded at the federal level, topping a decade of erosion in federal appropriations in the 1980's for all cancer research; and

WHEREAS, According to the National Cancer Institute, the incidence of breast cancer in the United States increased 32 percent between 1982 and 1989; and

WHEREAS, The United States government during the same period of time reportedly spent only $77 million annually researching the prevention of breast cancer, while it spent $648 million annually to prevent heart disease. Breast cancer accounts for 17 percent of all cancers in this country; but only 5 percent of the research budget of the National Cancer Institute was designated for research on breast cancer; and

WHEREAS, By the following decade, the 104th Congress of 1995–96 appropriated almost $500 million for federal breast cancer research. However, much more is needed to fund research directed at finding a cure and means of preventing breast cancer adequately; and

WHEREAS, Californians now have a unique opportunity to support breast cancer research in this state through the California Breast Cancer Research Fund Act, which allows individuals to make a voluntary contribution to support research when filing state income tax returns; and

WHEREAS, Heightened public awareness and education about breast cancer are crucial to the national effort to eradicate this epidemic; and

WHEREAS, Prominent organizations like the National Breast Cancer Coalition focus on three important goals to achieve such a worthy purpose; (1) increasing appropriations for high quality, peer-reviewed research, and working within the scientific community to focus research on prevention and finding a cure, (2) increasing access for all women to high quality treatment and care and to breast cancer clinical trials, and (3) increasing the influence of women living with breast cancer and other breast cancer activists

in the decisionmaking that impacts all issues surrounding breast cancer; and

WHEREAS, Such national organizations have precipitated the development of a National Action Plan on breast cancer that will be a collaboration of government, science, private industry, and consumers; and

WHEREAS, It is in the best interest of all women, men, and families to join together to promote greater awareness about a disease that affects all Californians, the need for true early detection and adequate treatment options, and the urgency of finding a cure; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Legislature of the State of California, in order to heighten public awareness about breast cancer, including the need to redouble efforts to prevent and cure this disease, declares the month of October as Breast Cancer Awareness Month; and be if further

*Resolved,* The Legislature of the State of California, in order to recognize that, to date, breast exam and mammography are still the primary methods of breast cancer detection available to women, and that, therefore, all women should perform monthly breast self-exams, women over 50 years of age should have regularly scheduled mammograms every year, and women 40 to 49 years of age, inclusive, should consult about mammograms with their health care provider, declares Monday October 20, 1997, as Breast Exam and Mammography Awareness Day; and be it further

*Resolved,* That the Legislature of the State of California emphasizes that the public education efforts conducted during the month of October should be part of an ongoing, year-round effort to raise public awareness across the state, and be it further

*Resolved,* That the Legislature of the State of California recognizes that while early detection through routine mammograms, clinical exams, and breast self-exams are important, the only effective means of protecting women against breast cancer is to make breast cancer research a priority and fund critically needed research into the cause, cure, and prevention of breast cancer; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit a suitably prepared copy of this resolution to the author for appropriate distribution.

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## RESOLUTION CHAPTER 129

Assembly Concurrent Resolution No. 77—Relative to Mental Illness Awareness Week.

[Filed with Secretary of State September 23, 1997.]

WHEREAS, Mental illness affects millions of Americans annually and costs our nation billions of dollars each year in lost productivity, unemployment, and incarceration from untreated mental illness; and

WHEREAS, Each year, 3 million or more of our young people are stricken with mental illness, interfering with their personal development, their emotional maturation, and their educational preparation, thus seriously impacting our nation's greatest natural resource; and

WHEREAS, Mental illness remains stigmatized, widely feared, and greatly misunderstood, yet the latest medical research overwhelmingly finds that serious mental illness is a biological brain disorder which can be effectively treated with the newest psychotropic medications, allowing victims to resume their normal, productive lives; and

WHEREAS, What began as an effort to increase Congressional awareness of mental illness in 1983, has grown into a nationwide weeklong observance; and

WHEREAS, By Congressional Resolution, the first full week of October is known as Mental Illness Awareness Week; and

WHEREAS, During this week, thousands of dedicated mental health care professionals, representatives of treatment facilities, members, families, and friends of the National Alliance for the Mentally Ill, members of the National Depressive and Manic-Depressive Association, members of the American Psychiatric Association, volunteers in the National Mental Health Association, the Obsessive Compulsive Foundation, members of local mental health associations, many civic groups, public officials, religious organizations, and concerned citizens join in a true grassroots campaign to bring information, education, hope, and treatment to our communities and our state; and

WHEREAS, Such dedicated individuals hold mental health fairs and candlelight vigils, produce special television programs, and screen public education films. They also give countless speeches and presentations in classrooms, at PTAs, to local governments and civil leaders and to civic groups in California to enhance public awareness of mental illness, to promote greater understanding for those who suffer from the disabling symptoms of mental illness, and to eliminate from our state the stigma associated with mental illness; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the week of October 5, 1997, through October 11, 1997, is hereby declared Mental Illness Awareness Week in California.

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## RESOLUTION CHAPTER 130

Assembly Joint Resolution No. 37—Relative to ovarian cancer research.

[Filed with Secretary of State September 23, 1997.]

WHEREAS, It is estimated that 26,800 new cases of ovarian cancer will develop in the United States in 1997, and that ovarian cancer will cause approximately 14,200 deaths in 1997; and

WHEREAS, Ovarian cancer ranks second among gynecological cancers in the number of new cases each year and causes more deaths than any other cancer of the female reproductive system; and

WHEREAS, Approximately 78 percent of ovarian cancer patients survive longer than one year after diagnosis and more than 46 percent of these patients survive longer than five years after diagnosis. If diagnosed and treated before the cancer spreads outside of the ovary, the five-year survival rate is 92 percent. However, only approximately 24 percent of all cases of ovarian cancer are detected at this stage; and

WHEREAS, Ovarian cancer research is desperately needed. Research would encourage more women to undergo screening tests earlier, as well as reduce medical costs associated with later discovery; and

WHEREAS, House Bill No. 953, authored by Representative Patsy Mink, the Ovarian Cancer Research and Information Amendments of 1997, would authorize $90 million to conduct ovarian cancer research; now, therefore, be it

*Resolved by the Assembly and Senate of the State of California, jointly,* That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to support House Bill No. 953 by Representative Patsy Mink, the Ovarian Cancer Research and Information Amendments of 1997; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and the Vice President of the United States, to the Speaker of the United States House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

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## RESOLUTION CHAPTER 131

Assembly Joint Resolution No. 39—Relative to the Intermodal Surface Transportation Efficiency Act.

[Filed with Secretary of State September 23, 1997.]

WHEREAS, The passage of the Intermodal Surface Transportation Efficiency Act (ISTEA) in 1991 represented a watershed event in the evolution of federal transportation policy; and

WHEREAS, The reauthorization of ISTEA is expected to be adopted by the United States Senate and House of Representatives later this year; and

WHEREAS, All members of California's Congressional delegation have created a caucus which has advocated on behalf of California and its interests during the ISTEA reauthorization process; and

WHEREAS, Several proposals are currently being considered by the United States Senate and House of Representatives; and

WHEREAS, In considering these proposals for reauthorizing ISTEA, the federal government is evaluating numerous factors for calculating the distribution of federal Highway Trust Fund moneys; and

WHEREAS, Each of these proposals contain some provisions that will be fiscally beneficial to California, and some provisions that will be fiscally detrimental to California; and

WHEREAS, Current federal program categories limit the flexibility of the states with regard to the manner in which the states may spend their funding; and

WHEREAS, The Congestion Mitigation and Air Quality (CMAQ) Program has proven to be effective at improving air quality in California given the state's substantial air quality improvement needs despite the current funding limitation on the program for large states; and

WHEREAS, California has traditionally been a "donor" state, having received on average over the six-year authorization of ISTEA just 91 percent of the amount California provided in gas tax revenues to the Highway Account of the federal Highway Trust Fund over that period; and

WHEREAS, Recent projections estimate that, within the next two years, international trade will account for 25 percent of California's economy, and intermodal goods movement as a result of international trade places a significant burden on the state's transportation infrastructure; and

WHEREAS, It is imperative that the federal government place a high priority on providing transportation funding for the heavy infrastructure needed to advance the nation's competitiveness in accommodating the growing international trade shipped through the nation's ports, airports, and border crossings; and

WHEREAS, California has been compelled to divert hundreds of millions of dollars from county, street, and road allocations to pay for border infrastructure improvements needed as a result of increased commercial and industrial traffic caused by the North American Free Trade Agreement; and

WHEREAS, Local and regional transit systems are indispensable to the daily transportation needs of millions of Californians; and

WHEREAS, California has recently enacted welfare reform legislation that is expected to result in a significant increase in transportation and transit needs of new workers leaving welfare; now, therefore, be it

*Resolved by the Assembly and Senate of the State of California, jointly,* That the Legislature of the State of California memorializes the Congress of the United States to enact legislation to reauthorize ISTEA in a manner that ensures more flexibility for states in spending Highway Trust Fund moneys, increases the amount of funding designated for the CMAQ program and removes the current limitations on CMAQ allocations to larger states, guarantees that each state receives at least 95 percent of its contribution to the Highway Account of the federal Highway Trust Fund each year, provides adequate funding to reflect the level of intermodal activity in each state, and allocates funding to offset the cost of local improvements to California's border infrastructure needed as a result of the implementation of the North American Free Trade Agreement, ensures consistent funding support for transit, and reflects support at the highest funding level possible for discretionary welfare-to-work transportation access programs; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, the Speaker of the House of Representatives, the Majority Leader of the United States Senate, to each member of the United States House of Representatives Committee on Transportation and Infrastructure, each member of the United States Senate Committee on Environment and Public Works, and each Senator and Representative from California in the Congress of the United States.

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## RESOLUTION CHAPTER 132

Senate Concurrent Resolution No. 50—Relative to the 50th anniversary of the United States Air Force.

[Filed with Secretary of State September 23, 1997.]

WHEREAS, John La Mountain and Thaddeus S. C. Lowe were the first successful civilian balloonists employed by the Union Army of the United States to observe troop movements of the Confederate forces in 1861 as the Balloon Corps of the Army of the Potomac; and

WHEREAS, Brig. Gen. Adolphus W. Greenley, Chief Signal Officer of the United States Army from 1887 to 1906, established a balloon section in the Signal Corps, which sent its one balloon to Cuba after the outbreak of the Spanish-American War in 1898, to observe the Spanish troops and direct artillery fire in the Battle of San Juan Hill; and

WHEREAS, On August 1, 1907, the Signal Corps established an Aeronautical Division to take "charge of all matters pertaining to military ballooning, air machines, and all kindred subjects," giving birth to the Army Air Arm and opening the way to the acquisition of the service's first airplane, a Wright flyer; and

WHEREAS, On September 17, 1908, in a demonstration flight for the Army, with Orville Wright at the controls of his airplane, Lt. Thomas E. Selfridge, an aviation enthusiast, who had been associated with Alexander Graham Bell in aeronautical experiments, and who only a few months before, in May 1908, had become the first U.S. Army officer to make a solo flight in a powered flying machine, the "White Wing," developed by Bell and his associates, was tragically killed as a passenger in the same flight; and

WHEREAS, The pilots of the 94th Pursuit Squadron, the famous "Hat-in-the-Ring" squadron, became the first American-trained unit to see combat in World War I and, later commanded by Eddie Rickenbacker, America's top ace, as part of the American Expeditionary Force (AEF), it included Maj. Raoul Lufbery, Lt. Douglas Campbell, and Lt. Frank Luke, Jr., who was killed in action, and like Rickenbacker was awarded the Congressional Medal of Honor, and the unit became America's "First Team," first as a member of the 1st Pursuit Group, and then the 1st Fighter Group, and finally the 1st Tactical Fighter Wing, which from its beginnings in France in May 1918 to the modern wing stationed at Langley Air Force Base, the "First Team" has been in the forefront in the development and testing of new fighter tactics, new operational doctrines, and new equipment; and

WHEREAS, Between the World Wars, the pilots of the air corps made the first round-the-world flight on April 4, 1924, in 175 days, in four specially built Douglas World Cruiser airplanes covering 26,000 miles from Seattle, Washington, only two of which returned to Seattle on September 28, 1924, demonstrated the first use of aerial refueling in 1923, setting new endurance records in 1929, and in 1934 in a flight of B-10 Martin bombers to Alaska under the command of Lt. Col. Henry (Hap) H. Arnold, the future commanding general of the U.S. Army Air Forces during World War II, successfully proved the value of resupplying outlying possessions by air; and

WHEREAS, The United States Army Air Corps was organized on July 2, 1926, the United States Army Air Forces established on June 20, 1941, and the United States Army reorganized on December 9, 1942, into three autonomous forces, including the Army Air Forces, the predecessor to today's United States Air Force; and

WHEREAS, The Army Air Forces through the 8th Air Force in England and the 15th Air Force based in Italy proved the value of daylight strategic bombing as a means of destroying an enemy's ability to wage war, and with the availability of long-range fighter support reduced our casualties and increased the losses of the enemy, thereby shortening the war; and

WHEREAS, The Women's Auxiliary Ferrying Squadron (WAFS), later redesignated as the Women's Air Force Service Pilots (WASPS) contributed greatly to the World War II effort by ferrying aircraft, personnel, and testing top-secret weapons and airplanes to ensure their safety for use by flight instructors and students, and without acknowledgment of military service or honors until 1979, 38 died in the line of duty and more than 900 continued to serve even though they were told on December 20, 1944, that they would be sent home; and

WHEREAS, Women were first allowed to join the fighter pilot ranks in 1993, and Capt. Amy Lynn Svoboda, a 1989 graduate of the U.S. Air Force Academy and one of 14 female fighter pilots in the Air Force, was killed on May 27, 1997, when her A-10 Thunderbolt attack jet went down in the Barry M. Goldwater Air Force Range near Gila Bend, about 100 miles from Tucson, Arizona, while she was two hours into a training mission, becoming the first female fighter pilot in the Air Force to die in a crash, and as one of just six women A-10 pilots she was chief of A-10 training for her squadron; and

WHEREAS, On January 16, 1941, the War Department announced the formation of the 99th Pursuit Squadron, the first African-American flying unit, to be trained at Tuskegee, Alabama, and known as the "Lonely Eagles" who fought throughout the Mediterranean and European Theaters as the renamed 99th Fighter Squadron assigned to the 332nd Fighter Group, of which they served as a bomber escort group that never lost a bomber to enemy fighters, and also became known as the "Tuskegee Airmen," the Air Force being the first service after the war to announce an end to racial segregation in its ranks on July 1, 1949; and

WHEREAS, During World War II, the first four Air Forces served to protect the western and eastern borders of the United States, the 5th Air Force became headquartered in Australia in December 1941, the 6th Air Force was formed in Panama in February 1942, the Hawaiian Air Force became the 7th Air Force in February 1942, the 8th Air Force, established in February 1942 and headquartered in England, began flying bombing raids over Europe in cooperation with the Royal Air Force Bomber Command, the 9th Air Force was established in September 1942 and moved to Egypt, and the 10th Air Force was formed in Ohio and moved in March 1942 to India where it was responsible for operating in the China-Burma-India Theater of operations; and

WHEREAS, The 11th Air Force was formed from the Alaskan Air Force to protect the United States and Canada and recover the Aleutian Islands from the Japanese, the 12th Air Force was established in August 1942 and moved to England to participate in the North African invasion, the 13th Air Force was formed in December 1942 and operated throughout the Pacific Theater of operation in the Solomon Islands, New Guinea, the Philippines, the Marianas, Midway, the Caroline Islands, Iwo Jima, Japan, and the

Marshall Islands, and the 15th Air Force began combat operations on November 2, 1943, in Tunisia, North Africa, and later operated from Italy; and

WHEREAS, On December 20, 1941, the American Volunteer Group (AVG), Claire Chennault's Flying Tigers, entered combat for the first time over Kunming, China, and later as part of the China Air Task Force (CATF), the Flying Tigers continued to fly missions over the Himalayas known as "the hump" from India to China, the CATF was redesignated as the 14th Air Force, and though greatly outnumbered, the 14th Air Force established a kill ratio of eight-to-one; and

WHEREAS, Lt. Col. James H. Doolittle (later General) of the Army Air Corps, an aviation pioneer and daredevil racer who pioneered instrument flying, won the Schneider Cup Race in 1925, and pushed for higher octane gasoline for airplanes in the 1930's, trained the volunteer crews of twin-engined B-25B Mitchell bombers to take off in only 450 feet from the deck of the aircraft carrier, the U.S.S. Hornet, to strike at the Japanese mainland in March 1942 to raise U.S. morale at a time when the Japanese were victorious and became known as "the Doolittle Raid" for which he received the Medal of Honor; and

WHEREAS, The Army Air Corps began World War II with more than 2,000 members and a few hundred airplanes, five years later the Army Air Force had almost 2.4 million members and nearly 80,000 aircraft and became, to this day, the largest air force ever assembled; and

WHEREAS, The National Security Act of 1947 on September 18, 1947, established the Department of Defense and the Air Force as a separate and independent arm of the United States Armed Forces, with W. Stuart Symington as the first Secretary of the Air Force and Gen. Carl A. Spaatz, Commanding General of the Army Air Force, as its first Chief of Staff on September 26, 1947, and upon its issuance, Executive Order No. 9877 defined the role and mission of the United States Air Force and its internal organization was established in the Air Force Organization Act of 1951, approved on September 19, 1951; and

WHEREAS, The United States Air Force, operating within the limits of conventional warfare in the Korean War of 1950–1953, repelled two invasions of South Korea and secured control of the skies so that United Nations troops could fight without fear of air attack, the Air Forces' F-86 pilots downing more than 100 MIGs in June 1953, including 16 on June 30 alone, and for the first time, with air supremacy established, the use of the helicopter permitted the frequent rescue of aviators shot down behind enemy lines, the Air Rescue Service having retrieved 170 Air Force pilots or crewmen from enemy territory, more than 10 percent of those who went down there; and

WHEREAS, On June 26, 1948, the Berlin Airlift "Operation Vittles" began with Douglas C-47 crews bringing eighty tons of supplies into the city on the first day, by December 31, 1948, the Air Force had flown the 100,000th flight of the airlift, and by the end of the combined Anglo-American airlift, the British and Americans delivered a total of 2,324,257 tons of food, fuel, and supplies to the beleaguered city of Berlin; and

WHEREAS, The Air Force through its Physiological Research Laboratory at Wright Field, Ohio, and later through the Air Force Aerospace Medical Research Laboratory, to name a few achievements, pioneered research on the effects of acceleration on the living organism, issued the first recommendation on the use of a carbon monoxide detector for aircraft, carried out the first aircraft flight using pressure breathing equipment at an altitude of 42,000 feet, prepared the first military service manuals concerning the high altitude health hazards to aircrew, conducted the first high altitude bailout with parachute deployment above 40,000 feet, pioneered research on high-speed human ejection, including participation in the first live in-flight ejection seat test, introduced the first operational full-pressure suit, developed the first Helmet Mounted Display, and designed the first computerized graphics of anthropometric data for use in aircraft design; and

WHEREAS, During the Vietnam War from 1962 to the summer of 1973, the Air Force, though fighting resolutely and courageously, experienced a decade of frustration due to questionable political policies and decisionmaking, and played the decisive role in forcing North Vietnam to the peace table in 1973, and all told, the Air Force flew 5.25 million sorties over South Vietnam, North Vietnam, northern and southern Laos, and Cambodia, losing 2,251 aircraft, 1,737 because of hostile action and 514 for operational reasons, a ratio of roughly 0.4 losses per 1,000 sorties compared favorably with a 2.0 rate in Korea and the 9.7 figure during World War II, beginning with the deaths of Capt. Fergus C. Groves II, Capt. Robert D. Larson, and SSgt. Milo B. Coghill in 1962, 1,738 officers and enlisted men of the Air Force were killed in action in Southeast Asia and another 766 died in accidents or from illness; and

WHEREAS, Capt. Charles (Chuck) E. Yeager (later General) made the first supersonic flight in the rocket-powered Bell XS-1 (later redesignated the Bell X-1) over Muroc Dry Lake, California on October 14, 1947, Maj. William (Pete) Knight flew the experimental X-15A-2 rocket plane to Mach 6.72 or 4,520 mph on October 3, 1967, the fastest speed ever for a manned aircraft, Capt. Robert C. Helt flying a Lockheed SR-71A "Blackbird" reconnaissance aircraft at Beale AFB, California, set a world record for altitude in horizontal flight (85,068.997 feet) on July 28, 1976, on the same day, Capt. Eldon W. Joersz flying the same type of aircraft at Beale AFB, California, set a world record for speed over a straight course (2,193.16 mph), and, again, on the same day, Maj. Adolphus H. Bledsoe flying the

Lockheed SR-71A "Blackbird" reconnaissance aircraft at Beale AFB, California, set a world record for speed over a closed circuit (2,092.294 mph); and

WHEREAS, On March 21, 1946, by order of Headquarters, Army Air Forces, the Continental Air Forces became the Strategic Air Command and from 1946 to 1991 the Strategic Air Command (SAC) operated the intercontinental and nuclear strike forces of the United States Air Force, assuming the crucial role of the main force deterring potential aggression against the United States and its allies by having our bombers on an airborne alert readiness status 24 hours a day; and

WHEREAS, On March 15, 1950, the Joint Chiefs of Staff gave the Air Force the exclusive responsibility for strategic guided missiles resulting in the development of the Atlas series intercontinental ballistic missile (ICBM) and booster for the U.S. Mercury manned flights, the Titan I and II, the Titan II becoming a launch vehicle for the Gemini Space Program, the Minuteman, our principal solid-propelled deterrent missile weapon, the Thor intermediate-range ballistic missile, and the Titan III which became the standard space launch system for our manned and unmanned booster missions, including the USAF's Manned Orbiting Laboratory (MOL), and the future development of military space shuttle plans and operations, communication satellites, early missile warning systems, and the Navstar Global Positioning System (GPS) for navigation; and

WHEREAS, The State of California played a major role in this history beginning in 1918 to the present in all phases of air power to include the acceleration of training air crew members, including pilots, navigators, bombardiers, and gunnery personnel; establishing the research, development, and testing of aircraft and ballistic missiles to assure the superiority of this nation's defensive capabilities during the critical periods of World War II, Korea, Vietnam, and the Cold War tensions; and this state has benefited tremendously due to the contributions made by the individuals who served in this state and those who make California their home as well as the financial benefits from Department of Defense spending which was a major contributor to our state's economy for at least 50 years; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the United States Air Force is to be commended on its 50th anniversary as an independent arm of the United States Armed Forces and for its achievements in the development of our air defenses, aircraft safety, aeromedical research, strategic bombing, fighter combat, the missile and space programs, and the many peacekeeping and relief missions the Air Force has performed throughout the years; and be it further

*Resolved,* That the Secretary of the Senate transmit a copy of this resolution to the President of the United States, the Secretary of the Air Force, the Chief of Staff of the Air Force, the Joint Chiefs of Staff

of the United States Armed Forces and the California Members of the United States Senate and the House of Representatives.

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## RESOLUTION CHAPTER 133

Senate Concurrent Resolution No. 55—Relative to Gladys Sargent.

[Filed with Secretary of State September 23, 1997.]

WHEREAS, Gladys "Gladdie" Sargent was a leader in advocating laws to protect animals, both wild and domestic, for half a century; and

WHEREAS, Gladdie worked tirelessly at the local and state levels to ensure that animals were humanely treated and respected; and

WHEREAS, Gladdie lobbied legislators and people across California about the need to improve the treatment of animals; and

WHEREAS, Gladdie's passion for animals has resulted in the successful passage of landmark legislation protecting many species of animals; and

WHEREAS, Gladdie's understanding of the need to save California's declining population of bighorn sheep was instrumental in reestablishing bighorn sheep populations to historic ranges; and

WHEREAS, More than 1.25 million dollars has been generated to preserve the bighorn sheep; and

WHEREAS, This revenue has funded nine major bighorn sheep translocation projects to augment or reintroduce bighorn sheep into historic habitats in Silver Canyon in Inyo County, Lee Vining Canyon in Mono County, the Chuckwalla Mountains in Riverside County, Eagle Crags, the Avawatz Mountains, the Bristol Mountains, the Bullion Mountains, and the Sheep Hole Mountains in San Bernardino County, and San Rafael Peak in Ventura County; and

WHEREAS, Since 1987, 151 bighorn sheep have been moved with these projects, and populations have proliferated, with sheep herds flourishing; and

WHEREAS, Gladdie's efforts will assure that bighorn sheep will survive for our children, grandchildren, and future generations to see and appreciate; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the Legislature dedicate a memorial bench in honor of Gladys Sargent, for her tireless efforts to protect California's animal population, to be located at Idyllwild, California, where people, young and old, from across our state, our nation, and around the world can rest, view, and learn about California's magnificent bighorn sheep.

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# RESOLUTION CHAPTER 134

## Senate Concurrent Resolution No. 59—Relative to Mother Teresa.

[Filed with Secretary of State September 23, 1997.]

WHEREAS, Mother Teresa was born Agnes Ganxha Bojaxhiu on August 26, 1910, in Skopje, in what is now the Yugoslavian Republic of Macedonia; and

WHEREAS, As a public school student, she was a member of a Catholic sodality with a special interest in foreign missions, and later stated, "At the age of 12, I first knew I had a vocation to help the poor. I wanted to be a missionary"; and

WHEREAS, At 18, having previously been inspired by the work of Yugoslavian Jesuit missionaries in Bengal, she left home to join the Irish branch of the Institute of the Blessed Virgin Mary, known as the Loreto Sisters, making her first vows as a nun in 1928, and her final vows in 1937; and

WHEREAS, While teaching and serving as principal at Loreto House, a fashionable girls' college in Calcutta, she became depressed by the destitution, homelessness, and sickness on the city streets; and

WHEREAS, In 1946, she received what she termed a "call within a call" to leave the convent and help the poor while living among them, and 2 years later received permission from the Vatican to leave the Loreto Sisters to follow this new calling, under the jurisdiction of the Archbishop of Calcutta; and

WHEREAS, After 3 months of medical training, under the American Medical Missionary Sisters of Patna, India, Mother Teresa went into the slums of Calcutta and brought back children who had been cut off from education to her first school; and

WHEREAS, In 1950, the Missionaries of Charity became a diocesan religious community, and 15 years later was recognized by the Vatican as a pontifical congregation, directly under Vatican jurisdiction; and

WHEREAS, As of 1995, the Missionaries of Charity had approximately 4,500 professed sisters in about 550 convents in 126 countries; and

WHEREAS, The vows of poverty taken by the members of the Missionaries of Charity are stricter than those taken by members of other congregations, because, in the words of Mother Teresa, "to be able to love the poor and know poor, we must be poor ourselves"; and

WHEREAS, In addition to their vows of poverty, chastity, and obedience, the Missionaries of Charity also take a vow of "wholehearted and free service to the poorest of the poor", meaning that they can neither work for the rich, nor accept any money for their work, and Mother Teresa believed that if the missionaries continued to do God's work, God would continue to provide the financial means; and

WHEREAS, The work of Mother Teresa and the Missionaries of Charity were not widely known until 1968, when noted British journalist and television personality Malcolm Muggeridge produced the documentary, “Something Beautiful for God”, followed in 1971 by a book of the same name; and

WHEREAS, Since that time, Mother Teresa’s name often appeared high on lists of the world’s most admired women, she was acclaimed by many as a living saint, and she received numerous awards and honors for her service to humanity, including the Congressional Gold Medal on June 5 of this year, the first Pope John XXIII Peace Prize in 1971, the 1976 Presidential Medal of Freedom, and the 1979 Nobel Peace Prize, which she accepted “in the name of the hungry, of the naked, of the homeless, of the blind, of the lepers, of all those who feel unwanted, unloved, and uncared for throughout society”; and

WHEREAS, Mother Teresa founded houses in Cuba and the Soviet Union, a notable accomplishment, in that these countries were not generally open to foreign church workers; and

WHEREAS, In recent years, Mother Teresa began working with sufferers of acquired immune deficiency syndrome, and opened AIDS shelters in New York, Philadelphia, and Washington, D.C.; and

WHEREAS, Mother Teresa, who lived and preached the motto, “Do small things with great love”, died in Calcutta, India, on September 5, 1997, at age 87; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the Legislature honors the memory of Mother Teresa, and encourages the people of California to reflect upon her integrity, her humility, and her philanthropy.

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## RESOLUTION CHAPTER 135

Assembly Concurrent Resolution No. 78—Relative to highways.

[Filed with Secretary of State September 25, 1997.]

WHEREAS, Former Assemblyman Willard H. Murray was first elected to the California State Assembly on November 7, 1988, and due to his popularity and untiring service to the communities that he represented, including Compton, Long Beach, Lynwood, and Paramount, he was overwhelmingly reelected to four consecutive terms, ending with his retirement in 1996; and

WHEREAS, Willard H. Murray was born on January 1, 1931, in Los Angeles, California, where he spent his youth; and

WHEREAS, Willard H. Murray joined the United States Air Force in 1951 and was stationed in Korea until 1958, and, following his release from the Air Force, he worked as an engineer in the Aerospace Division of the TRW Corporation until 1963; and

WHEREAS, He dedicated more than 25 years to government service, including working with Congressman Mervyn Dymally, the Los Angeles City Council, and the Los Angeles Mayor's office; and

WHEREAS, Willard H. Murray and his son, Kevin Murray, were the first father and son to contemporaneously serve in the Assembly during the same term; and

WHEREAS, Willard H. Murray is a past chair of the Legislative Black Caucus; and

WHEREAS, His greatest passions are family values, education, employment development, and crime prevention, and included among his outstanding legislative efforts are promoting diversity policies and quality enhancements at our educational institutions; and

WHEREAS, Willard H. Murray established the first Institute on the Preservation of Jazz as an Art Form at California State University, Long Beach, and, through his tireless efforts, he garnered millions of dollars in funding for improvements in district schools, including the Compton Unified School District where he fought for many years to improve conditions; and

WHEREAS, In recognition of his contributions to his constituents in the City of Compton and all of the surrounding areas, it is appropriate to designate the portion of State Highway Route 91 in the City of Compton from Alameda Road to Central Avenue the Willard H. Murray Freeway; and

WHEREAS, In 1995, State Highway Routes 41 and 46 from the intersection with Interstate Highway Route 101 to the intersection with Interstate Highway Route 5 saw a significant increase in the number of vehicle accidents involving serious and fatal injuries; and

WHEREAS, Local citizens along this highway segment expressed concern and outrage over the increasing number of fatal accidents; and

WHEREAS, Senator Jack O'Connell initiated action and offered solutions to the highway accidents in a letter to California Highway Patrol Commissioner Dwight Helmick dated November 28, 1995; and

WHEREAS, As a result of Senator O'Connell's letter and subsequent contacts, along with other local constituent actions through the "Fix 46 Committee," grant funding was requested by the California Highway Patrol for a special corridor project; and

WHEREAS, Because of the local concern and the grant request of the California Highway Patrol, the Office of Traffic Safety provided $100,000 to fund a Highway 41 and 46 Corridor Task Force, and provide educational material and enforcement efforts; and

WHEREAS, As part of the safety and enforcement improvements along this dangerous highway segment, Senator Jack O'Connell authored, in 1996, SB 1367 (Chapter 488 of the Statutes of 1996), which designated Highway Route 46, between the intersection with Interstate Highway Route 101 and the junction with State Highway Route 41, a Safety Enhancement-Double Fine Zone; and

WHEREAS, Due to the implementation of the Highway 41 and 46 Corridor Task Force's recommendations, there have been no fatal collisions on this stretch of highway since overall completion of the project on July 16, 1996; and

WHEREAS, In recognition of Senator Jack O'Connell's leadership, guidance, and efforts on behalf of his constituents in addressing the vehicle safety issues along State Highway Route 46, it is appropriate to designate the portion of State Highway Route 46 from the intersection with Interstate Highway Route 101 in Paso Robles to the junction of State Highway Route 41 at Cholame as the Jack O'Connell Highway; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the portion of State Highway Route 91 from Alameda Road to Central Avenue in the City of Compton is hereby officially designated the Willard H. Murray Freeway; and be it further

*Resolved*, That the portion of State Highway Route 46 from the intersection with Interstate Highway Route 101 in Paso Robles to the junction of State Highway Route 41 at Cholame is hereby officially designated the Jack O'Connell Highway; and be it further

*Resolved*, That the Department of Transportation is requested to determine the cost of appropriate plaques and markers, consistent with the signing requirements for the state highway system, showing those special designations and, upon receiving donations from nonstate sources sufficient to cover those costs, to erect those plaques and markers; and be it further

*Resolved*, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Director of Transportation.

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## RESOLUTION CHAPTER 136

Assembly Joint Resolution No. 38—Relative to Asian and Pacific Islander American civil rights.

[Filed with Secretary of State September 25, 1997.]

WHEREAS, The Congress of the United States is investigating possible campaign fundraising violations in the 1996 campaigns, which may involve illegal and improper contributions from Asian nations; and

WHEREAS, The current media attention regarding this investigation may result in the widespread denigration of Asian and Pacific Islander Americans throughout the United States; and

WHEREAS, Asian and Pacific Islander Americans have long suffered unfounded and demagogic accusations of disloyalty throughout American history; and

WHEREAS, Asian and Pacific Islander Americans have been victimized by discriminatory laws and actions, including: the internment of patriotic and loyal Japanese Americans during the Second World War, the Chinese Exclusion Act, the Alien Land Law, the repatriation of Filipino immigrants, and the prohibition of Asian and Pacific Islander Americans from owning property, voting, testifying in court, or attending school with other Americans; and

WHEREAS, A 1992 report of the United States Commission on Civil Rights concluded that Asian and Pacific Islander Americans are still frequently victims of racially motivated bigotry and violence, and face widespread prejudice, discrimination, and barriers to equal opportunity; and

WHEREAS, Recent months have seen repeated incidents of violence, harassment, and threats against Asian and Pacific Islander American political candidates and organizations; and

WHEREAS, The 1990 Census reports that 3.5 million Asian and Pacific Islander Americans reside in California; and

WHEREAS, The State of California, as home to the largest population of Asian and Pacific Islander Americans in the continental United States, should assume leadership in defending the right of Asian and Pacific Islander Americans to be free from discrimination and to participate in American democracy; now, therefore be it

*Resolved by the Assembly and Senate of the State of California, jointly,* That the Legislature of the State of California declares its support for a full, fair, and complete investigation of legal and ethical violations during the 1996 campaigns, including allegations of any and all foreign governments' attempts to influence elections in the United States; and be it further

*Resolved,* That the Legislature of the State of California respectfully memorializes the President, and Congress and its investigatory committees, to condemn all prejudice against Asian and Pacific Islander Americans and to publicly support the participation of Asian and Pacific Islander Americans in the political, public, and civic affairs of the United States; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

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# 1997–98

# FIRST EXTRAORDINARY SESSION

## EXTRAORDINARY SESSION SPECIAL RULES OF EFFECTIVENESS

Except for a statute calling an election, a statute providing for a tax levy or an appropriation calling for the usual current expenses of the state, and an urgency statute, all of which take effect immediately following enactment, a statute adopted during an extraordinary session takes effect on the 91st day following the adjournment of the special session (see subdivision (c) of Section 8 of Article IV of the California Constitution). The effective date of a joint resolution is the date it is filed with the Secretary of State.

This Extraordinary Session had not been adjourned prior to publication of these statutes; please refer to the succeeding year's Statutes and Amendments to the Codes.

EXECUTIVE DEPARTMENT
STATE OF CALIFORNIA

**A PROCLAMATION**
**by the**
**Governor of the State of California**

**WHEREAS,** an extraordinary occasion has arisen and now exists requiring that the Legislature of the State of California be convened in extraordinary session; now therefore,

**I, PETE WILSON,** Governor of the State of California, by virtue of the power and authority vested in me by Section 3 (b) Article IV of the Constitution of the State of California, do hereby convene the Legislature of the State of California to meet in extraordinary session at Sacramento, California, on the 13th day of January, 1997, at a time appointed by each house of the Legislature of said day for the following purpose and to legislate upon the following subject:

To consider and act upon legislation relative to providing assistance to those persons and public entities that suffered losses as a result of the heavy rains and flooding in the counties for which I have proclaimed a State of Emergency.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 7th day of January 1997.

Pete Wilson

Governor of California

ATTEST:

Bill Jones

Secretary of State

# STATUTES OF CALIFORNIA

1997–98

FIRST EXTRAORDINARY SESSION

1997 CHAPTERS

## CHAPTER 1

An act relating to water, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 15, 1997. Filed with Secretary of State August 15, 1997.]

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

SECTION 1. Three million five hundred twenty-five thousand dollars ($3,525,000) is hereby appropriated from the General Fund to the Department of Water Resources, for expenditure in the 1997–98 fiscal year, for support of projects specified in a report prepared by the Flood Emergency Action Team, dated May 10, 1997, as follows:

(a) Three hundred sixty thousand dollars ($360,000) for flood center event tracking and computer mapping.

(b) Nine hundred fifty thousand dollars ($950,000) to ensure the integrity of the Sacramento River Flood Control System.

(c) (1) One million four hundred thousand dollars ($1,400,000) to do all of the following:

(A) Conduct computer modeling studies and prepare floodplain mapping of rural areas with potential for urbanization, newly identified floodplains, and flood hazard areas with undefined 100-year flood elevations.

(B) Develop geographical information systems capability to facilitate floodplain mapping and acquire computer equipment and software for that purpose.

(C) Administer contracts with engineering firms to supplement computer-modeled floodplain studies.

(2) The funds designated for expenditure pursuant to paragraph (1) shall not be used for any other floodplain management purpose.

(d) Three hundred forty thousand dollars ($340,000) for the improvement of inspection services relating to levees, structures, designated floodways, and levee encroachment construction.

(e) Four hundred seventy-five thousand dollars ($475,000) to inspect dams that made large spillway releases during the 1997 floods for damage that may impair the ability of the dams to safely pass future floodflows.

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 implement, as soon as possible, prescribed actions recommended by the Flood Emergency Action Team, thereby

protecting the public health and safety, it is necessary that this act take effect immediately.

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## CHAPTER 2

An act relating to water, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 15, 1997. Filed with Secretary of State August 15, 1997.]

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

SECTION 1. (a) The sum of ten million four hundred thousand dollars ($10,400,000) is hereby appropriated from the General Fund to the Department of Water Resources for restoration and rehabilitation of flood, sediment, and erosion control projects, including deferred maintenance associated costs required by the United States Army Corps of Engineers. All expenditures shall be for the purpose of carrying out flood damage repair projects or nonstructural alternatives, if the nonstructural costs are equal to, or less than, the state's cost of repair, to repair damage from the January 1997 flood event to state or federally constructed or owned flood, sediment, and erosion control projects.

(b) If the United States Army Corps of Engineers determines that a portion of the repair work has corrected deferred maintenance, the department shall collect the amount of the repair costs allocable to that portion from the local agency responsible for maintenance or, if necessary, take action to establish a state maintenance area under Chapter 4.5 (commencing with Section 12878) of Part 6 of Division 6 of the Water Code for the purpose of recovering its costs.

(c) Any amount of federal or local funds, received by the department for the purpose of offsetting expenditures made pursuant to subdivision (a) or (b) prior to or after the encumbrance of funds appropriated pursuant to this section, shall be deposited in the General Fund. No funds appropriated by this section may be used for the purchase of property in connection with the implementation of nonstructural alternatives unless the acquisition is from willing sellers.

SEC. 2. (a) The Director of Finance may allocate an amount, not to exceed three million dollars ($3,000,000), from the Special Fund for Economic Uncertainties, to the Department of Water Resources for restoration and rehabilitation of flood, sediment, and erosion control projects, including deferred maintenance associated costs required by the United States Army Corps of Engineers. All expenditures shall be for the purpose of carrying out flood damage repair projects or nonstructural alternatives, if the nonstructural

costs are equal to, or less than, the state's cost of repair, to repair damage from the January 1997 flood event to state or federally constructed or owned flood, sediment, and erosion control projects.

(b) Any amount of federal or local funds, received by the department for the purpose of offsetting expenditures made pursuant to subdivision (a) or prior to or after the encumbrance of funds allocated pursuant to this section, shall be deposited in the General Fund. No funds allocated pursuant to this section may be used for the purchase of property in connection with the implementation of nonstructural alternatives unless the acquisition is from willing sellers.

(c) On or before January 1, 1999, the Department of Water Resources shall submit a report to the Joint Committee on Legislative Budget summarizing the expenditure of the funds allocated pursuant to subdivision (a).

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 undertake repairs to the vital flood control systems that were damaged during the January 1997 floods, thereby protecting human health and safety, it is necessary that this act take effect immediately.

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## CHAPTER 3

An act to amend Sections 17207 and 24347.5 of, and to add Sections 195.77, 195.78, and 195.79 to, the Revenue and Taxation Code, relating to disaster relief, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 25, 1997. Filed with Secretary of State August 25, 1997.]

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

SECTION 1. Section 195.77 is added to the Revenue and Taxation Code, to read:

195.77. In the 1996–97 fiscal year, or as soon as possible thereafter, the county auditor of an eligible county, proclaimed by the Governor to be in a state of disaster as a result of storm, flooding, or any other related casualty that occurred in that county during December 1996 or January 1997, shall certify to the Director of Finance an estimate of the total amount of the reduction in property tax revenues on both the regular secured roll and the supplemental roll for the 1996–97 fiscal year resulting from the reassessment by the county assessor pursuant to paragraph (1) of subdivision (a) of Section 170 of those

properties that are eligible properties as a result of that disaster, except that the amount certified shall not include any estimated property tax revenue reductions to school districts (other than basic state aid school districts) and county offices of education. For purposes of this section, "basic state aid school district" means any school district that does not receive a state apportionment pursuant to subdivision (h) of Section 42238 of the Education Code, but receives from the state only a basic apportionment pursuant to Section 6 of Article IX of the California Constitution.

SEC. 2. Section 195.78 is added to the Revenue and Taxation Code, to read:

195.78. After the county auditor of an eligible county, as described in Section 195.77, has made the applicable certification to the Director of Finance pursuant to that same section, the director shall, within 30 days after verification of the county auditor's estimate, certify this amount to the Controller for allocation to the county. Upon receipt of certification from the Director of Finance, the Controller shall make the appropriate allocation to the county within 10 working days thereafter.

SEC. 3. Section 195.79 is added to the Revenue and Taxation Code, to read:

195.79. On or before July 1, 1998, each eligible county, as described in Section 195.77, shall compute and remit to the Controller for deposit in the General Fund an amount equal to the amount allocated to it by the Controller pursuant to Section 195.78, less the actual amount of its property tax revenue lost on the regular secured and supplemental rolls with respect to those eligible properties described in Section 195.77 as a result of the reassessment of those properties pursuant to paragraph (1) of subdivision (a) of Section 170, excluding any property tax revenue lost by school districts (other than basic state aid school districts) and county offices of education. If the actual amount of property tax revenue lost by an eligible county in the immediately preceding fiscal year, as described and limited in the preceding sentence, exceeds the amount allocated by the Controller to that county pursuant to Section 195.78, the Controller shall allocate the amount of that excess to that eligible county. For purposes of this section, "basic state aid school district" means any school district that does not receive a state apportionment pursuant to subdivision (h) of Section 42238 of the Education Code, but receives from the state only a basic apportionment pursuant to Section 6 of Article IX of the California Constitution.

SEC. 4. Section 17207 of the Revenue and Taxation Code is amended to read:

17207. (a) An excess disaster loss, as defined in subdivision (c), shall be carried to other taxable years as provided in subdivision (b), with respect to losses resulting from any of the following disasters:

(1) Forest fire or any other related casualty occurring in 1985 in California.

(2) Storm, flooding, or any other related casualty occurring in 1986 in California.

(3) Any loss sustained during 1987 as a result of a forest fire or any other related casualty.

(4) Earthquake, aftershock, or any other related casualty occurring in 1987 in California.

(5) Earthquake, aftershock, or any other related casualty occurring in 1989 in California.

(6) Any loss sustained during 1990 as a result of fire or any other related casualty in California.

(7) Any loss sustained as a result of the Oakland/Berkeley Fire of 1991, or any other related casualty.

(8) Any loss sustained as a result of storm, flooding, or any other related casualty occurring in February 1992 in California.

(9) Earthquake, aftershock, or any other related casualty occurring in April 1992 in the County of Humboldt.

(10) Riots, arson, or any other related casualty occurring in April or May 1992 in California.

(11) Any loss sustained as a result of the earthquakes that occurred in the County of San Bernardino in June and July of 1992, or any other related casualty.

(12) Any loss sustained as a result of the Fountain Fire that occurred in the County of Shasta, or as a result of either of the fires in the Counties of Calaveras and Trinity that occurred in August 1992, or any other related casualty.

(13) Any loss sustained as a result of storm, flooding, or any other related casualty that occurred in the Counties of Alpine, Contra Costa, Fresno, Humboldt, Imperial, Lassen, Los Angeles, Madera, Mendocino, Modoc, Monterey, Napa, Orange, Plumas, Riverside, San Bernardino, San Diego, Santa Barbara, Sierra, Siskiyou, Sonoma, Tehama, Trinity, and Tulare, and the City of Fillmore in January 1993.

(14) Any loss sustained as a result of a fire that occurred in the Counties of Los Angeles, Orange, Riverside, San Bernardino, San Diego, and Ventura, during October or November of 1993, or any other related casualty.

(15) Any loss sustained as a result of the earthquake, aftershocks, or any other related casualty that occurred in the Counties of Los Angeles, Orange, and Ventura on or after January 17, 1994.

(16) Any loss sustained as a result of a fire that occurred in the County of San Luis Obispo during August of 1994, or any other related casualty.

(17) Any loss sustained as a result of the storms or flooding occurring in 1995, or any other related casualty, sustained in any county of this state subject to a disaster declaration with respect to the storms and flooding.

(18) Any loss sustained as a result of the storms or flooding occurring in December 1996 or January 1997, or any related casualty,

sustained in any county of this state subject to a disaster declaration with respect to the storms or flooding.

(b) (1) In the case of any loss allowed under Section 165(c) of the Internal Revenue Code, relating to limitation of losses of individuals, any excess disaster loss shall be carried forward to each of the five taxable years following the taxable year for which the loss is claimed. However, if there is any excess disaster loss remaining after the five-year period, then 50 percent of that excess disaster loss shall be carried forward to each of the next 10 taxable years.

(2) The entire amount of any excess disaster loss as defined in subdivision (c) shall be carried to the earliest of the taxable years to which, by reason of subdivision (b), the loss may be carried. The portion of the loss which shall be carried to each of the other taxable years shall be the excess, if any, of the amount of excess disaster loss over the sum of the adjusted taxable income for each of the prior taxable years to which that excess disaster loss is carried.

(c) "Excess disaster loss" means a disaster loss computed pursuant to Section 165 of the Internal Revenue Code which exceeds the adjusted taxable income of the year of loss or, if the election under Section 165(i) of the Internal Revenue Code is made, the adjusted taxable income of the year preceding the loss.

(d) For purposes of this section, "disaster losses" are losses that either qualified for treatment under Section 165(i) of the Internal Revenue Code or were sustained in any county or city in this state which is proclaimed by the Governor to be in a state of disaster.

(e) Losses allowable under this section may not be taken into account in computing a net operating loss deduction under Section 172 of the Internal Revenue Code.

(f) For purposes of this section, "adjusted taxable income" shall be defined by Section 1212(b)(2)(B) of the Internal Revenue Code.

(g) For losses described in paragraphs (15), (16), (17), and (18) of subdivision (a), the election under Section 165(i) of the Internal Revenue Code may be made on a return or amended return filed on or before the due date of the return (determined with regard to extension) for the taxable year in which the disaster occurred.

SEC. 5. Section 24347.5 of the Revenue and Taxation Code is amended to read:

24347.5. (a) An excess disaster loss, as defined in subdivision (c), shall be carried to other income years as provided in subdivision (b), with respect to losses resulting from any of the following disasters:

(1) Forest fire or any other related casualty occurring in 1985 in California.

(2) Storm, flooding, or any other related casualty occurring in 1986 in California.

(3) Any loss sustained during 1987 as a result of a forest fire or any other related casualty.

(4) Earthquake, aftershock, or any other related casualty occurring in October 1987 in California.

(5) Earthquake, aftershock, or any other related casualty occurring in October 1989 in California.

(6) Any loss sustained during 1990 as a result of fire or any other related casualty in California.

(7) Any loss sustained as a result of the Oakland/Berkeley Fire of 1991, or any other related casualty.

(8) Any loss sustained as a result of storm, flooding, or any other related casualty occurring in February 1992 in California.

(9) Earthquake, aftershock, or any other related casualty occurring in April 1992 in the County of Humboldt.

(10) Riots, arson, or any other related casualty occurring in April or May 1992 in California.

(11) Any loss sustained as a result of the earthquakes or any other related casualty that occurred in the County of San Bernardino in June and July of 1992.

(12) Any loss sustained as a result of the Fountain Fire that occurred in the County of Shasta, or as a result of either of the fires in the Counties of Calaveras and Trinity that occurred in August 1992, or any other related casualty.

(13) Any loss sustained as a result of storm, flooding, or any other related casualty that occurred in the Counties of Alpine, Contra Costa, Fresno, Humboldt, Imperial, Lassen, Los Angeles, Madera, Mendocino, Modoc, Monterey, Napa, Orange, Plumas, Riverside, San Bernardino, San Diego, Santa Barbara, Sierra, Siskiyou, Sonoma, Tehama, Trinity, and Tulare, and the City of Fillmore in January 1993.

(14) Any loss sustained as a result of a fire that occurred in the Counties of Los Angeles, Orange, Riverside, San Bernardino, San Diego, and Ventura, during October or November of 1993, or any other related casualty.

(15) Any loss sustained as a result of the earthquake, aftershocks, or any other related casualty that occurred in the Counties of Los Angeles, Orange, and Ventura on or after January 17, 1994.

(16) Any loss sustained as a result of a fire that occurred in the County of San Luis Obispo during August of 1994, or any other related casualty.

(17) Any loss sustained as a result of the storms or flooding occurring in 1995, or any other related casualty, sustained in any county of this state subject to a disaster declaration with respect to the storms and flooding.

(18) Any loss sustained as a result of the storms or flooding occurring in December 1996 or January 1997, or any related casualty, sustained in any county of this state subject to a disaster declaration with respect to the storms or flooding.

(b) (1) In the case of any loss allowed under Section 165 of the Internal Revenue Code, relating to losses, any excess disaster loss shall be carried forward to each of the five income years following the income year for which the loss is claimed. However, if there is any

excess disaster loss remaining after the five-year period, then 50 percent of that excess disaster loss shall be carried forward to each of the next 10 income years.

(2) The entire amount of any excess disaster loss as defined in subdivision (c) shall be carried to the earliest of the income years to which, by reason of subdivision (b), the loss may be carried. The portion of the loss which shall be carried to each of the other income years shall be the excess, if any, of the amount of excess disaster loss over the sum of the net income for each of the prior income years to which that excess disaster loss is carried.

(c) "Excess disaster loss" means a disaster loss computed pursuant to Section 165 of the Internal Revenue Code, which exceeds the net income of the year of loss or, if the election under Section 165(i) of the Internal Revenue Code is made, the net income of the year preceding the loss.

(d) For purposes of this section, "disaster losses" are losses that either qualified for treatment under Section 165(i) of the Internal Revenue Code, or were sustained in any county or city in this state which is proclaimed by the Governor to be in a state of disaster.

(e) Any corporation subject to the provisions of Section 25101 or 25101.15 that has disaster losses pursuant to this section, shall determine the excess disaster loss to be carried to other income years under the principles specified in Section 25108 relating to net operating losses.

(f) Losses allowable under this section may not be taken into account in computing a net operating loss deduction under Section 172 of the Internal Revenue Code.

(g) For losses described in paragraphs (15), (16), (17), and (18) of subdivision (a), the election under Section 165(i) of the Internal Revenue Code may be made on a return or amended return filed on or before the due date of the return (determined with regard to extension) for the income year in which the disaster occurred.

SEC. 6. The Legislature finds and declares that this act fulfills a statewide public purpose because of both of the following:

(a) The Governor of California has officially proclaimed that the flooding that occurred in California during December 1996 and January 1997 was a disaster, thus qualifying affected persons for various forms of governmental assistance and relief.

(b) This act is consistent with and supplements the proclaimed disaster relief by providing necessary fiscal assistance and tax relief to affected jurisdictions and persons to allow them to maintain essential basic services and repair damage to, and restore, their homes and businesses.

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 timely provide essential relief to those persons and jurisdictions who have suffered damage or loss as a result of the floods that occurred in California during December 1996 and January 1997, it is necessary that this act take effect immediately.

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## CHAPTER 4

An act to amend Section 8686 of the Government Code, relating to disaster relief, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 26, 1997. Filed with Secretary of State August 26, 1997.]

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

SECTION 1. Section 8686 of the Government Code is amended to read:

8686. (a) For any eligible project, the state share shall amount to no more than 75 percent of total state eligible costs.

(b) Notwithstanding subdivision (a), the state share shall be up to 100 percent of total state eligible costs connected with the following events:

(1) The October 17, 1989, Loma Prieta earthquake.

(2) The October 20, 1991, East Bay fire.

(3) The fires that occurred in southern California from October 1, 1993, to November 30, 1993, inclusive.

(4) The January 17, 1994, Northridge earthquake.

(5) (A) Storms that occurred in California during the periods commencing January 3, 1995, and February 13, 1995, as specified in agreements between this state and the United States for federal financial assistance.

(B) The state shall only assume an increased share pursuant to this paragraph in those cases where the Federal Emergency Management Administration has approved the federal share of costs.

(6) The storms that occurred in California in December of 1996 and early January of 1997, as specified in agreements between this state and the United States for federal financial assistance.

(c) The state shall make no allocation for any project application resulting in a state share of less than two thousand five hundred dollars ($2,500) under this section.

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 essential relief to those persons and jurisdictions that have suffered damage or loss as a result of the floods

that occurred in California during 1996 and 1997, it is necessary that this act take effect immediately.

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## CHAPTER 5

An act relating to water, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 21, 1997. Filed with Secretary of State September 22, 1997.]

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

SECTION 1. Four million seven hundred five thousand dollars ($4,705,000) is hereby appropriated from the General Fund to the Department of Water Resources for capital outlay projects specified in a report prepared by the Flood Emergency Action Team, dated May 10, 1997, as follows:

(a) Five hundred thousand dollars ($500,000) for the Sacramento River Bank Protection Project.

(b) Seven hundred seventy-five thousand dollars ($775,000) for the Yuba River Feasibility Study.

(c) Five hundred thousand dollars ($500,000) for the Sacramento River Watershed Management Study.

(d) Five hundred thousand dollars ($500,000) for the San Joaquin River Watershed Management Study.

(e) Seven hundred thousand dollars ($700,000) for the Cache Creek Settling Basin.

(f) One hundred forty thousand dollars ($140,000) for the West Sacramento Project.

(g) Eight hundred forty thousand dollars ($840,000) for the Mid-Valley Levee Reconstruction Project.

(h) Two hundred fifty thousand dollars ($250,000) for the Mallott Road Bridge Construction.

(i) Two hundred fifty thousand dollars ($250,000) for the Goose Lake Flood Relief Structure Reconstruction.

(j) Two hundred fifty thousand dollars ($250,000) for the North Fork Feather River Project near Chester.

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 undertake repairs to vital flood control systems and other structures and facilities that were damaged during the January

1997 floods, thereby protecting human health and safety, it is necessary that this act take effect immediately.

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## CHAPTER 6

An act to amend Section 989.4 of the Military and Veterans Code, relating to veterans, and making an appropriation therefor.

[Approved by Governor September 28, 1997. Filed with Secretary of State September 29, 1997.]

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

SECTION 1. Section 989.4 of the Military and Veterans Code is amended to read:

989.4. The department shall maintain an Indemnity Fund, which is hereby created in the State Treasury, for the purpose of indemnifying eligible purchasers, for any of the following:

(a) The cost of repairing structural damage in excess of five hundred dollars ($500) caused by flood, including floods by surface water, waves, tidal water, tidal wave, overflow of streams or other bodies of water, spray from any of the foregoing, whether wind driven or not, and water that backs up through sewers or drains.

(b) The cost of repairing structural damage in excess of 5 percent of the total covered loss or five hundred dollars ($500), whichever is greater, caused by earthquake, volcanic eruption, landslide, or mudslide.

(c) Money accruing to the Indemnity Fund is hereby appropriated for carrying out the purposes of this article.

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## CHAPTER 7

An act to amend Section 2079.11 of, and to add Sections 1102.6c and 1102.17 to the Civil Code, to amend Sections 8589.5 and 51178 of, and to, add Sections 8589.4 and 51183.5 to, the Government Code, and to amend Sections 2621.9, 2694, 2696, 4125, and 4136 of the Public Resources Code, relating to real estate.

[Approved by Governor October 6, 1997. Filed with Secretary of State October 7, 1997.]

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

SECTION 1. Section 1102.6c is added to the Civil Code, to read:

1102.6c. (a) This section shall apply only to any real property that is subject to one or more of the following:

(1) Zone A of flood insurance rate maps issued by the Federal Emergency Management Agency pursuant to the National Flood Insurance Act of 1968 (42 U.S.C. Secs. 4001 et seq.).

(2) Section 8589.4 of the Government Code.

(3) Section 51183.5 of the Government Code.

(4) Section 2621.9 of the Public Resources Code.

(5) Section 2694 of the Public Resources Code.

(6) Section 4136 of the Public Resources Code.

(b) In addition to the disclosure required pursuant to Section 1102.6, the transferor of any real property that is subject to this section, or his or her agent, shall deliver to the prospective transferee the following natural hazard disclosure statement:

NATURAL HAZARD DISCLOSURE STATEMENT

The seller and his or her agent(s) disclose the following information with the knowledge that even though this is not a warranty, prospective buyers may rely on this information in deciding whether and on what terms to purchase the subject property. Seller hereby authorizes any agent(s) representing any principal(s) in this action to provide a copy of this statement to any person or entity in connection with any actual or anticipated sale of the property.

THE FOLLOWING ARE REPRESENTATIONS MADE BY THE SELLER AND HIS OR HER AGENT(S) BASED ON THEIR KNOWLEDGE AND MAPS DRAWN BY THE STATE. THIS INFORMATION IS A DISCLOSURE AND IS NOT INTENDED TO BE PART OF ANY CONTRACT BETWEEN THE BUYER AND THE SELLER.

THIS REAL PROPERTY LIES WITHIN THE FOLLOWING HAZARDOUS AREA(S):

A SPECIAL FLOOD HAZARD AREA (Zone "A") designated by the Federal Emergency Management Agency.

Yes ____ No ____ Do not know/information not available from local jurisdiction ____

AN AREA OF POTENTIAL FLOODING shown on an inundation map pursuant to Section 8589.5 of the Government Code.

Yes ____ No ____ Do not know/information not available from local jurisdiction ____

A VERY HIGH FIRE HAZARD SEVERITY ZONE pursuant to Section 51179 of the Government Code. The owner of this property is subject to the maintenance requirements of Section 51182 of the Government Code.

Yes ____ No ____

A WILDLAND AREA THAT MAY CONTAIN SUBSTANTIAL FOREST FIRE RISKS AND HAZARDS pursuant to Section 4125 of the Public Resources Code. The owner of this property is subject to the maintenance requirements of Section 4291 of the Public Resources Code. Additionally, it is not the state's responsibility to provide fire protection services to any building or structure located within the wildlands unless the Department of Forestry and Fire Protection has entered into a cooperative agreement with a local agency for those purposes pursuant to Section 4142 of the Public Resources Code.

Yes ____ No ____

AN EARTHQUAKE FAULT ZONE pursuant to Section 2622 of the Public Resources Code.

Yes ____ No ____

A SEISMIC HAZARD ZONE pursuant to Section 2696 of the Public Resources Code.

Yes ____ No ____

THESE HAZARDS MAY LIMIT YOUR ABILITY TO DEVELOP THE REAL PROPERTY, TO OBTAIN INSURANCE, OR TO RECEIVE ASSISTANCE AFTER A DISASTER.

BUYER(S) AND SELLER(S) MAY WISH TO OBTAIN PROFESSIONAL ADVICE REGARDING THOSE HAZARDS.

Seller certifies that the information herein is true and correct to the best of the seller's knowledge as of the date signed by the seller.

Signature of Seller ________________ Date ___________________

Agent certifies that the information herein is true and correct to the best of the agent's knowledge as of the date signed by the agent.

Signature of Agent ________________ Date ___________________

Signature of Agent ________________ Date ___________________

Buyer certifies that he or she has read and understands this document.

Signature of Buyer ________________ Date ___________________

(c) If an earthquake fault zone, seismic hazard zone, very high fire hazard severity zone, or wildland fire area map or accompanying information is not of sufficient accuracy or scale that a reasonable person can determine if the subject real property is included in a natural hazard area, the seller or seller's agent shall mark "Yes" on the Natural Hazard Disclosure Statement. The seller or seller's agent may mark "No" on the Natural Hazard Disclosure Statement if he or she attaches a report prepared pursuant to subdivision (c) of Section 1102.4 that verifies the property is not in the hazard zone. Nothing in this subdivision is intended to limit or abridge any existing duty of the seller or the seller's agents to exercise reasonable care in making a determination under this subdivision.

(d) The disclosure required pursuant to this section may be provided by the seller and seller's agent in the Local Option Real Estate Disclosure Statement provided that the Local Option Real Estate Disclosure Statement includes substantially the same information and substantially the same warning that is required by this section.

(e) The disclosure required pursuant to this section is only a disclosure between the seller, the seller's agents, and the buyer, and shall not be used by any other party, including, but not limited to, insurance companies, lenders, or governmental agencies, for any purpose.

(f) The specification of items for disclosure in this section does not limit or abridge any obligation for disclosure created by any other provision of law or that may exist in order to avoid fraud, misrepresentation, or deceit in the transfer transaction.

SEC. 2. Section 1102.17 is added to the Civil Code, to read:

1102.17. (a) A person who is acting as an agent for a seller of real property that is located within a special flood hazard area designated by the Federal Emergency Management Agency, or the seller if he or she is acting without an agent, shall disclose to any prospective purchaser the fact that the property is located within a special flood hazard area.

(b) In all transactions that are subject to Section 1102, the disclosure required by subdivision (a) of this section shall be provided by either of the following means:

(1) The Local Option Real Estate Disclosure Statement as provided in Section 1102.6a.

(2) The Natural Hazard Disclosure Statement as provided in Section 1102.6c.

(c) Disclosure is required pursuant to this section only when one of the following conditions is met:

(1) The seller, or the seller's agent, has actual knowledge that the property is within a special flood hazard area.

(2) The local jurisdiction has compiled a list, by parcel, of properties that are within the special flood hazard area and a notice has been posted at the offices of the county recorder, county assessor, and county planning agency that identifies the location of the parcel list.

(d) For purposes of the disclosure required by this section, the following persons shall not be deemed agents of the seller:

(1) Persons specified in Section 1102.11.

(2) Persons acting under a power of sale regulated by Section 2924.

(e) Section 1102.13 shall apply to this section.

(f) The specification of items for disclosure in this section does not limit or abridge any obligation for disclosure created by any other provision of law or that may exist in order to avoid fraud, misrepresentation, or deceit in the transfer transaction.

SEC. 3. Section 2079.11 of the Civil Code is amended to read:

2079.11. (a) Except as provided in subdivision (b), to the extent permitted by law, the consumer information publications referred to in this article, including, but not limited to, the information booklets described in Section 10084.1 of the Business and Professions Code and Section 25402.9 of the Public Resources Code, shall be in the public domain and freely available.

(b) Notwithstanding subdivision (a), the Seismic Safety Commission's Homeowner's Guide to Earthquake Safety, published pursuant to Section 10149 of the Business and Professions Code, shall be made available to the public at cost and for reproduction at no cost to any vendor who wishes to publish the guide, provided the vendor agrees to submit the guide to the commission prior to publication for content approval.

SEC. 4. Section 8589.4 is added to the Government Code, to read:

8589.4. (a) A person who is acting as an agent for a seller of real property that is located within an area of potential flooding shown on an inundation map designated pursuant to Section 8589.5, or the seller if he or she is acting without an agent, shall disclose to any prospective purchaser the fact that the property is located within an area of potential flooding.

(b) In all transactions that are subject to Section 1102 of the Civil Code, the disclosure required by subdivision (a) of this section shall be provided by either of the following means:

(1) The Local Option Real Estate Disclosure Statement as provided in Section 1102.6a of the Civil Code.

(2) The Natural Hazard Disclosure Statement as provided in Section 1102.6c of the Civil Code.

(c) Disclosure is required pursuant to this section only when one of the following conditions is met:

(1) The seller, or the seller's agent, has actual knowledge that the property is within an inundation area.

(2) The local jurisdiction has compiled a list, by parcel, of properties that are within the inundation area and a notice has been posted at the offices of the county recorder, county assessor, and county planning agency that identifies the location of the parcel list.

(d) For purposes of the disclosure required by this section, the following persons shall not be deemed agents of the seller:

(1) Persons specified in Section 1102.11 of the Civil Code.

(2) Persons acting under a power of sale regulated by Section 2924 of the Civil Code.

(e) Section 1102.13 of the Civil Code shall apply to this section.

(f) The specification of items for disclosure in this section does not limit or abridge any obligation for disclosure created by any other provision of law or that may exist in order to avoid fraud, misrepresentation, or deceit in the transfer transaction.

SEC. 5. Section 8589.5 of the Government Code is amended to read:

8589.5. (a) Inundation maps showing the areas of potential flooding in the event of sudden or total failure of any dam, the partial or total failure of which the Office of Emergency Services determines, after consultation with the Department of Water Resources, would result in death or personal injury, shall be prepared and submitted as provided in this subdivision within six months after the effective date of this section, unless the time for submission of such maps is extended for reasonable cause by the Office of Emergency Services. The local governmental organization, utility, or other owner of any dam so designated shall submit to the Office of Emergency Services one such map which shall delineate potential flood zones that could result in the event of dam failure when the reservoir is at full capacity or if the local governmental organization, utility, or other owner of any dam shall determine it to be desirable he or she shall submit three such maps, which shall delineate

potential flood zones that could result in the event of dam failure when the reservoir is at full capacity, at median-storage level, and at normally low-storage level. After submission of copies of such map or maps, the Office of Emergency Services shall review the map or maps, and shall return that map or maps which do not meet the requirements of this subdivision, together with recommendations relative to conforming to such provisions. Maps rejected by the Office of Emergency Services shall be revised to conform to such recommendations and resubmitted. The Office of Emergency Services shall keep on file those maps which conform to the provisions of this subdivision. Maps approved pursuant to this subdivision shall also be kept on file with the Department of Water Resources. The owner of a dam shall submit final copies of such maps to the Office of Emergency Services which shall immediately submit identical copies to the appropriate public safety agency of any city, county, or city and county likely to be affected.

(b) Based upon a review of inundation maps submitted pursuant to subdivision (a) or based upon information gained by an onsite inspection and consultation with the affected local jurisdiction when the requirement for an inundation map is waived pursuant to subdivision (d), the Office of Emergency Services shall designate areas within which death or personal injury would, in its determination, result from the partial or total failure of a dam. The appropriate public safety agencies of any city, county, or city and county, the territory of which includes such an area, shall adopt emergency procedures for the evacuation and control of populated areas below such dams. The Office of Emergency Services shall review such procedures to determine whether adequate public safety measures exist for the evacuation and control of populated areas below the dams, and shall make recommendations with regard to the adequacy of such procedures to the concerned public safety agency. In conducting such review the Office of Emergency Services shall consult with appropriate state and local agencies.

Emergency procedures specified in this subdivision shall conform to local needs, and may be required to include any of the following elements or any other appropriate element, in the discretion of the Office of Emergency Services: (1) delineation of area to be evacuated; (2) routes to be used; (3) traffic control measures; (4) shelters to be activated for the care of the evacuees; (5) methods for the movement of people without their own transportation; (6) identification of particular areas or facilities in the flood zones which will not require evacuation because of their location on high ground or similar circumstances; (7) identification and development of special procedures for the evacuation and care of people from unique institutions; (8) procedures for the perimeter and interior security of the area, including such things as passes, identification requirements, and antilooting patrols; (9) procedures for the lifting of the evacuation and reentry of the area; and (10) details of which

organizations are responsible for these functions and the material and personnel resources required. It is the intent of the Legislature to encourage each agency that prepares such emergency procedures to establish a procedure for their review every two years.

(c) "Dam," as used in this section, has the same meaning as specified in Sections 6002, 6003, and 6004 of the Water Code.

(d) Under certain exceptional conditions as follows, the Office of Emergency Services may waive the requirement for an inundation map:

(1) Where the effects of potential inundation in terms of death or personal injury as determined through onsite inspection by the Office of Emergency Services in consultation with the affected local jurisdictions, can be ascertained without an inundation map; and

(2) Where adequate evacuation procedures can be developed without benefit of an inundation map.

(e) If development should occur in any exempted area after a waiver has been granted, the local jurisdiction shall notify the Office of Emergency Services of such development. All waivers shall be reevaluated every two years by the Office of Emergency Services.

(f) A notice shall be posted at the offices of the county recorder, county assessor, and county planning agency that identifies the location of the map, and of any information received by the county subsequent to the receipt of the map regarding changes to inundation areas within the county.

SEC. 6. Section 51178 of the Government Code is amended to read:

51178. (a) The director shall identify areas in the state as very high fire hazard severity zones based on consistent statewide criteria and based on the severity of fire hazard that is expected to prevail in those areas. Very high fire hazard severity zones shall be based on fuel loading, slope, fire weather, and other relevant factors.

(b) On or before January 1, 1995, the director shall identify areas as very high fire hazard severity zones in the Counties of Alameda, Contra Costa, Los Angeles, Marin, Napa, Orange, Riverside, San Bernardino, San Francisco, San Mateo, Santa Barbara, Santa Clara, Solano, Sonoma, and Ventura. This information shall be transmitted to all local agencies with identified very high fire hazard severity zones within 30 days.

(c) On or before January 1, 1996, the director shall identify areas as very high fire hazard severity zones in all other counties. This information shall be transmitted to all local agencies with identified high fire hazard severity zones within 30 days.

(d) Any county that receives an official map pursuant to this section shall post a notice at the office of the county recorder, county assessor, and county planning agency identifying the location of the map and any information regarding changes to the map.

SEC. 7. Section 51183.5 is added to the Government Code, to read:

51183.5. (a) A seller of real property that is located within a very high fire hazard severity zone, designated pursuant to this chapter shall disclose to any prospective purchaser the fact that the property is located within a very high fire hazard severity zone, and is subject to the requirements of Section 51182.

(b) In all transactions that are subject to Section 1102 of the Civil Code, the disclosure required by subdivision (a) of this section shall be provided by either of the following means:

(1) The Local Option Real Estate Disclosure Statement as provided in Section 1102.6a of the Civil Code.

(2) The Natural Hazard Disclosure Statement as provided in Section 1102.6c of the Civil Code.

(c) Disclosure is required pursuant to this section only when one of the following conditions is met:

(1) The seller, or the seller's agent, has actual knowledge that the property is within a very high fire hazard severity zone.

(2) A map that includes the property has been provided to the local agency pursuant to subdivision (c) of Section 51178, and a notice is posted at the offices of the county recorder, county assessor, and county planning agency that identifies the location of the map and any information regarding changes to the map received by the local agency.

(d) If the map or accompanying information is not of sufficient accuracy or scale that a reasonable person can determine if the subject real property is included in a very high fire hazard zone, the seller shall mark "Yes" on the Natural Hazard Disclosure Statement. The seller may mark "No" on the Natural Hazard Disclosure Statement if he or she attaches a report prepared pursuant to subdivision (c) of Section 1102.4 of the Civil Code that verifies the property is not in the hazard zone. Nothing in this subdivision is intended to limit or abridge any existing duty of the seller or the seller's agents to exercise reasonable care in making a determination under this subdivision.

(e) Section 1102.13 of the Civil Code shall apply to this section.

(f) The specification of items for disclosure in this section does not limit or abridge any obligation for disclosure created by any other provision of law or that may exist in order to avoid fraud, misrepresentation, or deceit in the transfer transaction.

SEC. 8. Section 2621.9 of the Public Resources Code is amended to read:

2621.9. (a) A person who is acting as an agent for a seller of real property which is located within a delineated earthquake fault zone, or the seller if he or she is acting without an agent, shall disclose to any prospective purchaser the fact that the property is located within a delineated earthquake fault zone.

(b) In all transactions that are subject to Section 1102 of the Civil Code, the disclosure required by subdivision (a) of this section shall be provided by either of the following means:

(1) The Local Option Real Estate Transfer Disclosure Statement as provided in Section 1102.6a of the Civil Code.

(2) The Natural Hazard Disclosure Statement as provided in Section 1102.6c of the Civil Code.

(c) Disclosure is required pursuant to this section only when one of the following conditions is met:

(1) The seller, or the seller's agent, has actual knowledge that the property is within a delineated earthquake fault zone.

(2) A map that includes the property has been provided to the city or county pursuant to Section 2622, and a notice has been posted at the offices of the county recorder, county assessor, and county planning agency that identifies the location of the map and any information regarding changes to the map received by the county.

(d) If the map or accompanying information is not of sufficient accuracy or scale that a reasonable person can determine if the subject real property is included in a delineated earthquake fault hazard zone, the agent shall mark "Yes" on the Natural Hazard Disclosure Statement. The agent may mark "No" on the Natural Hazard Disclosure Statement if he or she attaches a report prepared pursuant to subdivision (c) of Section 1102.4 of the Civil Code that verifies the property is not in the hazard zone. Nothing in this subdivision is intended to limit or abridge any existing duty of the seller or the seller's agents to exercise reasonable care in making a determination under this subdivision.

(e) For purposes of the disclosures required by this section, the following persons shall not be deemed agents of the seller:

(1) Persons specified in Section 1102.11 of the Civil Code.

(2) Persons acting under a power of sale regulated by Section 2924 of the Civil Code.

(f) For purposes of this section, Section 1102.13 of the Civil Code shall apply.

(g) The specification of items for disclosure in this section does not limit or abridge any obligation for disclosure created by any other provision of law or that may exist in order to avoid fraud, misrepresentation, or deceit in the transfer transaction.

SEC. 9. Section 2694 of the Public Resources Code is amended to read:

2694. (a) A person who is acting as an agent for a seller of real property which is located within a seismic hazard zone, as designated under this chapter, or the seller if he or she is acting without an agent, shall disclose to any prospective purchaser the fact that the property is located within a seismic hazard zone.

(b) In all transactions that are subject to Section 1102 of the Civil Code, the disclosure required by subdivision (a) of this section shall be provided by either of the following means:

(1) The Local Option Real Estate Transfer Disclosure Statement as provided in Section 1102.6a of the Civil Code.

(2) The Natural Hazard Disclosure Statement as provided in Section 1102.6c of the Civil Code.

(c) Disclosure is required pursuant to this section only when one of the following conditions is met:

(1) The seller, or the seller's agent, has actual knowledge that the property is within a seismic hazard zone.

(2) A map that includes the property has been provided to the city or county pursuant to Section 2622, and a notice has been posted at the offices of the county recorder, county assessor, and county planning agency that identifies the location of the map and any information regarding changes to the map received by the county.

(d) If the map or accompanying information is not of sufficient accuracy or scale that a reasonable person can determine if the subject real property is included in a seismic hazard zone, the agent shall mark "Yes" on the Natural Hazard Disclosure Statement. The agent may mark "No" on the Natural Hazard Disclosure Statement if he or she attaches a report prepared pursuant to subdivision (c) of Section 1102.4 of the Civil Code that verifies the property is not in the hazard zone. Nothing in this subdivision is intended to limit or abridge any existing duty of the seller or the seller's agents to exercise reasonable care in making a determination under this subdivision.

(e) For purposes of the disclosures required by this section, the following persons shall not be deemed agents of the seller:

(1) Persons specified in Section 1102.11 of the Civil Code.

(2) Persons acting under a power of sale regulated by Section 2924 of the Civil Code.

(f) For purposes of this section, Section 1102.13 of the Civil Code applies.

(g) The specification of items for disclosure in this section does not limit or abridge any obligation for disclosure created by any other provision of law or that may exist in order to avoid fraud, misrepresentation, or deceit in the transfer transaction.

SEC. 10. Section 2696 of the Public Resources Code is amended to read:

2696. (a) The State Geologist shall compile maps identifying seismic hazard zones, consistent with the requirements of Section 2695. The maps shall be compiled in accordance with a time schedule developed by the director and based upon the provisions of Section 2695 and the level of funding available to implement this chapter.

(b) The State Geologist shall, upon completion, submit seismic hazard maps compiled pursuant to subdivision (a) to the board and all affected cities, counties, and state agencies for review and comment. Concerned jurisdictions and agencies shall submit all comments to the board for review and consideration within 90 days. Within 90 days of board review, the State Geologist shall revise the maps, as appropriate, and shall provide copies of the official maps to each state agency, city, or county, including the county recorder, having jurisdiction over lands containing an area of seismic hazard.

The county recorder shall record all information transmitted as part of the public record.

(c) In order to ensure that sellers of real property and their agents are adequately informed, any county that receives an official map pursuant to this section shall post a notice within five days of receipt of the map at the office of the county recorder, county assessor, and county planning agency, identifying the location of the map and any information regarding changes to the map and the effective date of the notice.

SEC. 11. Section 4125 of the Public Resources Code is amended to read:

4125. (a) The board shall classify all lands within the state, without regard to any classification of lands made by or for any federal agency or purpose, for the purpose of determining areas in which the financial responsibility of preventing and suppressing fires is primarily the responsibility of the state. The prevention and suppression of fires in all areas which are not so classified is primarily the responsibility of local or federal agencies, as the case may be.

(b) On or before July 1, 1991, and every 5th year thereafter, the department shall provide copies of maps identifying the boundaries of lands classified as state responsibility pursuant to subdivision (a) to the county assessor for every county containing any such lands. The department shall also notify county assessors of any changes to state responsibility areas within the county resulting from periodic boundary modifications approved by the board.

(c) A notice shall be posted at the offices of the county recorder, county assessor, and county planning agency that identifies the location of the map, and of any information received by the county subsequent to the receipt of the map regarding changes to state responsibility areas within the county.

SEC. 12. Section 4136 of the Public Resources Code is amended to read:

4136. (a) A seller of real property which is located within a state responsibility area determined by the board, pursuant to Section 4125, shall disclose to any prospective purchaser the fact that the property is located within a wildland area which may contain substantial forest fire risks and hazards and is subject to the requirements of Section 4291.

(b) Except for property located within a county which has assumed responsibility for prevention and suppression of all fires pursuant to Section 4129, the seller shall also disclose to any prospective buyer that it is not the state's responsibility to provide fire protection services to any building or structure located within the wildlands unless the department has entered into a cooperative agreement with a local agency for those purposes pursuant to Section 4142.

(c) In all transactions that are subject to Section 1102 of the Civil Code, the disclosures required by this section shall be provided by either of the following means:

(1) The Local Option Real Estate Disclosure Statement as provided in Section 1102.6a of the Civil Code.

(2) The Natural Hazard Disclosure Statement as provided in Section 1102.6c of the Civil Code.

(d) Disclosure is required pursuant to this section only when one of the following conditions is met:

(1) The seller, or the seller's agent, has actual knowledge that the property is within a wildland fire zone.

(2) A map that includes the property has been provided to the city or county pursuant to Section 4125, and a notice has been posted at the offices of the county recorder, county assessor, and county planning agency that identifies the location of the map and any information regarding changes to the map received by the county.

(e) If the map or accompanying information is not of sufficient accuracy or scale that a reasonable person can determine if the subject real property is included in a wildland fire zone, the seller shall mark "Yes" on the Natural Hazard Disclosure Statement. The seller may mark "No" on the Natural Hazard Disclosure Statement if he or she attaches a report prepared pursuant to subdivision (c) of Section 1102.4 of the Civil Code that verifies the property is not in the hazard zone. Nothing in this subdivision is intended to limit or abridge any existing duty of the seller or the seller's agents to exercise reasonable care in making a determination under this subdivision.

(f) For purposes of this section, Section 1102.13 of the Civil Code applies.

(g) The specification of items for disclosure in this section does not limit or abridge any obligation for disclosure created by any other provision of law or that may exist in order to avoid fraud, misrepresentation, or deceit in the transfer transaction.

SEC. 13. The Legislature finds and declares that state law requires several different state departments and agencies to conduct natural hazard mapping and information programs, based on their respective scientific and professional competencies. The Legislature finds and declares that city and county planning agencies sometimes have difficulty using the maps and information produced by state departments and agencies regarding natural hazards because the maps may be at different scales, use different projections, or are otherwise incompatible. The Legislature finds and declares that the lack of compatible maps sometimes makes it difficult for city and county planning agencies to make information regarding natural hazards readily available to landowners, their agents, and the public. Therefore, the Legislature finds and declares that there is a need for state officials to coordinate their natural hazard mapping and information programs to make them more effective. The Legislature encourages the Secretary of the Resources Agency to provide

coordination and leadership among the state departments and agencies that conduct natural hazard mapping and information programs.

SEC. 14. Sections 1, 2, 4, 7, 8, 9, 10, 11, and 12 of this act shall become operative on March 1, 1998.

SEC. 15. 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.

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## CHAPTER 8

An act to amend Section 8690.6 of the Government Code, relating to disaster assistance, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 7, 1997. Filed with Secretary of State October 7, 1997.]

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

SECTION 1. Section 8690.6 of the Government Code is amended to read:

8690.6. (a) There is hereby established in the Reserve for Economic Uncertainties a Disaster Response-Emergency Operations Account. Notwithstanding Section 13340, moneys in the account are continuously appropriated, subject to the limitations specified in subdivisions (c) and (d), without regard to fiscal years, for allocation by the Director of Finance to state agencies for disaster response operation costs incurred by state agencies as a result of a state of emergency proclamation by the Governor. These allocations may be for response activities, defined as any activity occurring within 365 days of a declaration of emergency by the Governor, or for recovery activities, defined as any activity occurring after the 365th day of a declaration of emergency by the Governor.

(b) It is the intent of the Legislature that the Disaster Response-Emergency Operations Account have an unencumbered balance of one million dollars ($1,000,000) at the beginning of each fiscal year. In the event that this account requires additional moneys

to meet claims against the account, the Director of Finance may transfer moneys from the Special Fund for Economic Uncertainties to the account in that amount sufficient to pay the amount of the claims that exceed the unencumbered balance in the account.

(c) For response activities, as defined, the funds shall be allocated subject to the conditions of this section and in accordance with Section 27.00 of the annual Budget Act, except that the allocations may be made 30 days or less after notification of the Legislature pursuant to subdivision (b) of that section.

(d) For recovery activities, as defined, the funds shall be allocated subject to the conditions of this section and in accordance with all subdivisions of Section 27.00 of the annual Budget Act, and shall include the Department of Finance's determination as to whether the expenditure for which the allocation is to be made was previously proposed at some point in the legislative consideration of the annual Budget Bill and was not approved and, if the expenditure was not approved, for what reasons.

(e) Notwithstanding subdivision (a) of Section 27.00 of the annual Budget Act, authorizations for acquisitions, relocations, and environmental mitigations related to response or recovery activities, as defined in subdivision (a), shall be authorized pursuant to this section. However, these funds may only be authorized for needs that are a direct consequence of the declared emergency, directly related to the January 1997 floods or any flood-related emergency that is declared by the Governor on or before January 1, 1999, where failure to undertake the project may interrupt essential state services or jeopardize public health or safety. In addition, any acquisition accomplished under this subdivision shall comply with any otherwise applicable law, except as provided in the first sentence of this subdivision.

(f) No funds allocated under this section shall be used to supplant federal funds otherwise available in the absence of state financial relief.

(g) The amount of financial assistance provided to an individual, business, or governmental entity under this section, or pursuant to any other program of state-funded disaster assistance, shall be deducted from sums received in payment of damage claims asserted against the state, its agents, or employees, for causing or contributing to the effects of the proclaimed disaster.

(h) No public entity administering disaster assistance to individuals shall receive funds under this section unless it administers that assistance pursuant to the following criteria:

(1) All applications, forms, and other written materials presented to persons seeking assistance shall be available in English and in the same language as that used by the major non-English-speaking group within the disaster area.

(2) Bilingual staff who reflect the demographics of the disaster area shall be available to applicants.

(i) The Legislature finds and declares that the amendments made to subdivision (c) by Chapter 16 of the Statutes of 1986 declare the intent of the Legislature at the time when this section was originally added to this code by Chapter 1562 of the Statutes of 1985.

(j) This section shall become inoperative on July 1, 1999, and, as of January 1, 2000, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2000, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 2. 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 disaster assistance may be provided at the earliest opportunity to alleviate the consequences of the January 1, 1997, floods or subsequent emergencies declared by the Governor on or before January 1, 1999, it is necessary for this act to take effect immediately.

# JOINT RESOLUTION

1997–98

FIRST EXTRAORDINARY SESSION

1997 RESOLUTION CHAPTER

## RESOLUTION CHAPTER 1

Assembly Joint Resolution No. 1—Relative to federal flood relief.

[Filed with Secretary of State March 13, 1997.]

WHEREAS, The unprecedented flooding across California has caused the loss of life, destruction of homes, and an unprecedented disruption in the web of neighbors, transportation, commerce, services, and communications that bind communities together; and

WHEREAS, Forty-eight counties in California have qualified for federal disaster relief because of damage caused by the recent flooding; and

WHEREAS, The State of California is entitled to $100 million in federal emergency relief funds for transportation infrastructure repair for this disaster; and

WHEREAS, California state agencies have already identified well over $300 million worth of flood-caused transportation damages that are eligible for state and federal funding for urgently needed repairs; and

WHEREAS, California has already requested the release of the $100 million in federal transportation disaster relief funds of which only $50 million have been received to date; and

WHEREAS, These moneys are urgently needed to rebuild the lands, lives, and livelihood of thousands of Californians; now, therefore, be it

*Resolved by the Assembly and Senate of the State of California, jointly,* That the Legislature of the State of California strongly urges the Federal Highway Administrator to immediately release all of the requested transportation funds for which California is eligible, so that the flood-ravaged people of California may more speedily recover from their plight; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, and to the Federal Highway Administrator.